United States Court of Appeals

for the Second Circuit

APPENDIX

74-1680

ORIGINAL

In The

United States Court of Appeals

For The Second Circuit

UNITED STATES COURT OF APPEALS
FILED
OCT 25 1974
SECOND CIRCUIT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Respondent,

vs.

MANAGEMENT DYNAMICS, INC., EDWIN BARRETT, CLYDE GOFF, EPHRAIM HOFFMAN, PETER R. WATSON, GLOBAL SECURITIES, INC., ALLEN LANGENAUER, DAVID LANGENAUER, BERNARD OSCHERS, LEE SCHNEIDER, JOSEPH CIRELLO, FAIRFIELD SECURITIES, INC., THOMAS F. BRENNAN, III,

Defendants,

and

WILLIAM N. LEVY, A.J. CARNO, INC., ANTHONY NADINO, MAYFLOWER SECURITIES, INC. and SAMUEL D. HODGE,

Defendants-Appellants.

JOINT APPENDIX

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GENERAL DOCKET
UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

SOUTHERN DISTRICT | CASE NO. 74-1680

TITLE OF CASE	ATTORNEYS FOR APPELLEE
ECURITIES AND EXCHANGE COMMISSION, Plaintiff-Appellee v. ANAGEMENT DYNAMICS, INC., WILLIAM N. LEVY, DWIN BARRETT, CLYDE GOFF, EPHRAIM HOFFMAN, ETER R. WATSON, GLOBAL SECURITIES, INC., LLEN LANGENAUER, DAVID LANGENAUER, BERNARD CHERS, LEE SCHNEIDER, A.J. CARNO, INC., NTHONY NADINO, MAYFLOWER SECURITIES INC., OSEPH CIRELLO, FAIRFIELD SECURITIES INC., HOMAS F. BRENNAN III, SAMUEL D. HODGE, Defendants-	William D. Moran Regional Administrator Securities and Exchange Comm. 26 Federal Plaza New York, N.Y. 10007 264-1603 Frederick L. White S.E.C. Washington, D.C. 20549 202-755-1280
ILLIAM N. LEVY, A.J. CARNO INC. ANTHONY NADINO AYFLOWER SECURITIES, INC., SAMUEL D. HODGE, (& in 74-2148) (& in 74-1686) Defendants-Appellants.	ATTORNEYS FOR APPELLANT A.J. Carno and Nadino Feldshuh & Frank (Carno & Nadino) 144 E. 44 St. N.Y.C. 10017 (6878930) Lipkin, Gushae & Held (Levy) Film 225 Broadway N.Y.C. 10007 (233-2750) Borden & Ball (Mayflower) 345 Park Ave. New York, N.Y. 10022
(& in 74-1842) O. BELOW: 73 C 2642 JDGE BELOW: CARTER ATE OF JUDGMENT: 4-10-74 OTICE OF APPEAL FILED: 5-3-74	Dan Brecher (Hodge) 230 Park Ave. New York, N.Y. 10017

DATE	ACCOUNT OF APPELLANT	Received	Disbursed	REMARKS
5-17-74	Action docketed (Carno Nadino)	$ 50 00		
-20-74	Action docketed (Levy)	50.00		
22-74	Rec'd ck #10869 (4702) eo# 174		4/00 00	

GENERAL DOCKET

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

CASE NO. 74-1680	S.E.C. V. MANAGEMENT DYNAMICS INC., et al.

DATE	FILINGS—PROCEEDINGS	Filed
5-14-74	Filed copies of docket entries and notice of appeal (Carno & Nadino)	
5-14-74	Filed copies of docket entries and notice of appeal (Levy)	
5-17-74	Received docket fee (Carno & Nadino)	
5-17-74	Feldshuh & Frank filed Form C	
5-17-74	Feldshuh & Frank filed Form D	
5-20-74	Received docket fee (William N. Levy) (& in 74-1686)	
5-20-74	Lipkin,Gusrae & Held,filed Form C	
5-20-74	Lipkin,Gusrae & Held,filed Form D (& in 74-1686)	
5-21-74	Filed order noting that Feldshuh & Frank,Esq. as counsel for appellant Carno & Nadino; record by 6-17-74; w/dismissal in default; appellant's briefs and appendices by by 7-29-74; w/dismissal in default; appellee's briefs by 8-28-74; argument week of 10-14-74	
6-12-74	Filed copy of docket entries and notice of appeal (Mayfower Securities, Inc.)(& in 74-1686)	
6-12-74	Filed copy of notice of appeal (Samuel D. Hodge)(& in 74-1686)	
6-14-74	Filed record (original papers of district court) (& in 74-1686)	
6-18-74	Dan Brecher filed form C (& in 74-1686)	
6-18-74	Dan Brecher filed form D (& in 74-1686)	
6-18-74	Received docket fee (Mayflower)(& in 74-1686,74-1842)	
6-18-74	Borden & Ball filed form C (& in 74-1686,74-1842)	
6-18-74	Borden & Ball filed form D (& in 74-1686,74-1842)	
7-29-74	Filed order; appellant;s brief and appendix by 8-12-74 w/dismissal in default; appellee's brief by 9-11-74; argument week of 10-14-74 (Mayflower Securities Co) (& in 74-1686, 74-1842)	
8-12-74	Filed stipulation re: deferred appendix	
8-12-74	Filed 4 page proof copies of appellant's brief with proof of service (William N. Levy)	
8-12-74	Filed 4 page proof copies of appellant's brief (Mayflower Securities) with proof of service	
8-12-74	Filed 4 page proof copies of appellant's brief with proof of service (Carno, Inc & Nadino)	
8-16-74	Filed designation of appellants of parts of record to be included in the appendix with proof of service	
8-16-74	Filed designation of appellant of parts of record to be included in the record (Hodge)	

SEE PAGE 3

Docket Entries

Form A.O. 107a (July 1968)

GENERAL DOCKET
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

CASE NO. 74-1680	S.E.C. v. Management Dynamics Inc, et al.

Page 3

DATE	FILINGS—PROCEEDINGS	Filed
8-23-74	Filed order extending time to docket the appeal out of time (on consent	
8-27-74	Received docket fee (Hodge) (& in 74-2148)	
8-27-74	Filed 4 page proof copies ofappellant's brief with proof of service (Hodge)	
9-9-74	Filed designation of appendix, appellant	
9-11-74	Filed order extending time to file appellee's brief to 9-19-74 (on consent)	
10-4-74	Filed order extending time to file appellant's reply briefs to 10-18-74 (on consent) (Endorsed:10-7-74)	

SUMMONS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION Plaintiff, -against- MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE Defendants.	Judge Carter 73 Civil 2642 SUMMONS

To the above named Defendants:

You are hereby summoned and required to serve upon William D. Moran, Regional Administrator, plaintiff's attorney, whose address is 26 Federal Plaza, New York, New York, 10007 an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded

SUMMONS

in the complaint.

THOMAS E. ANDREWS
Clerk of Court

Date: June 13, 1973

s/ E. A. Becker
Deputy Clerk

Note: --This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure

(Seal of Court)

COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION Plaintiff, -against- MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE Defendants.	Judge Carter 73 Civil Action File No. 2642 COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") for its complaint alleges:

1. Defendants Management Dynamics, Inc. ("MD"), William N. Levy ("Levy"), Edwin Barrett ("Barrett"), Clyde Goff ("Goff"), Ephraim Hoffman ("Hoffman"), Peter R. Watson ("Watson"), Global Securities, Inc. ("Global"), Allen Langenauer ("Langenauer"), David Langenauer, Bernard Oschers ("Oschers"), Lee Schneider ("Schneider"), A. J. Carno, Inc. ("Carno"), Anthony Nadino ("Nadino"), Mayflower Securities, Inc. ("Mayflower"),

Joseph Cirello ("Cirello"), Fairfield Securities, Inc. ("Fairfield"), Thomas F. Brennan, III ("Brennan"), and Samuel D. Hodge ("Hodge") are engaged in and are about to engage in acts, practices and courses of conduct which constitute and will constitute violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act"), as amended, 15 U.S.C. 77e(a), 77e(c), and 77q(a) and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), as amended, 15 U.S.C. 78j(b), and Rule CFR 240.10b-5 (Rule 10b-5) thereunder.

2. The Commission, pursuant to Section 20(b) of the Securities Act, 15 U.S.C.77t(b) and Section 21(e) of the Exchange Act, 15 U.S.C. 78u(e), brings this action to enjoin such acts and practices.

3. This Court has jurisdiction of this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. 77v(a) and Section 27 of the Exchange Act, 15 U.S.C. 78aa.

4. Pursuant to authority conferred upon the Commission by Sections 10(b) and 23(a) of the Exchange Act, 15 U.S.C. 78j(b) and 78w(a), the Commission has promulgated Rule 10b-5. Said rule was in effect at all times mentioned herein and is now in effect.

5. MD is a New Jersey corporation with principal offices at 1524 Walnut Street, Philadelphia, Pennsylvania, 19102. MD has never registered its securities with the Commission pursuant to either the Securities Act or the Exchange Act. Since

September of 1972, the principal business of MD has been land development. It has realized no income from this activity. Indeed, since incorporation MD has never reported a profit. During October and November 1972 MD sold 43,125 unregistered MD shares to seven purchasers for $33,750. On December 8, 1972, the Commission suspended the over-the-counter trading of MD securities because the company could not account for 960,000 of its unregistered common shares. They carried no restrictive legend. 1/ The Commission's suspension release also noted the rise in the bid in MD common shares from 1/4 in August 1972 to $6 in December 1972 and the absence of accurate and complete information concerning MD and its history. The release also indicated that none of MD's shares had ever been registered. On March 21 the Commission terminated this trading suspension.

6. Levy is an attorney admitted to practice in the State of New Jersey. His office address is 130 North Broadway, Camden, New Jersey. Levy specializes in a securities law practice. Since the incorporation of MD he has been its chief counsel and also has been its secretary and a director. Levy is the prime architect of the violative acts alleged herein.

7. Barrett is and since September 6, 1972, has been president and chief operating officer of MD. His home address is 815 Lukens Lane, Springfield, Pennsylvania. He presently owns some two million MD common shares.

8. Goff is and since July 1972 has been vice president

1/ Such legend would have indicated that such shares had not been registered with the Commission.

and a director of MD. Goff resides at 131 Betton Street, Wrigley Park, Pennsylvania. He owns some 257,000 MD common shares.

9. Hoffman is, and since July 1972 has been, vice-president, treasurer and a director of MD. Hoffman resides at 600 Wayfield Road, Wynnewood, Pennsylvania. He owns some 229,000 MD common shares.

10. Watson was engaged by MD in October and November 1972 to sell 960,000 unregistered MD common shares. These shares were issued to Watson in his name in 5,000-share units and bore no restrictive legend to indicate they were not registered. These are the shares which were one of the causes for the Commission to suspend over-the-counter trading in MD securities. These shares were retained by Watson for at least one month. Watson offered these shares for sale to persons in Florida, New York and elsewhere. Watson resides at 3140 Bay Shore Boulevard, N.E., St. Petersburg, Florida.

11. Global is a New Jersey corporation doing business as a broker-dealer in securities and has been so registered with the Commission since March 26, 1972. Global maintains its principal place of business at 120 West Seventh Street, Plainfield, New Jersey. From September to December 1972, Global purchased 34,482 shares of MD in the over-the-counter market and sold 20,346 shares to its retail customers.

12. Langenauer is, and since February 1972 has been, president, treasurer and a director of Global. He has been

associated with various other broker-dealers since 1968. He resides at 202 Harding Road, Scotch Plains, New Jersey.

13. David Langenauer, the father of Langenauer, is and since February 1972 has been vice-president, secretary and a director of Global. He resides at 1111 Raritan Road, Scotch Plains, New Jersey. He and his son are the chief operating officers of Global.

14. Oschers is and since at least September 1972 has been a salesman at Global. He was directly responsible for the sale of several thousand unregistered MD shares. Oschers' home address is 28 Duncan Avenue, Jersey City, New Jersey.

15. Schneider, a/k/a Leon Schneider, is and since at least September 1972 has been a salesman at Global. He was directly responsible for the sale of several thousand unregistered MD shares. Schneider's home address is 37 Bryant Drive, Livingston, New Jersey.

16. Carno is a New York corporation doing business as a broker-dealer in securities and has been so registered with the Commission since October 25, 1960. Between its first trade with Global on September 28, 1972 and its last on November 21, 1972, Carno purchased 11,228 shares of MD in the over-the-counter market. Of these, 9,825 shares or 88 per cent were sold to Global. Carno's principal place of business is 42 Broadway, New York, New York.

17. Nadino is and since September 1972 has been vice president in charge of trading at Carno. Nadino has supervisory responsibility for Carno's trading department and personally handled Carno's MD trading. Nadino lives at 129 Roosevelt Avenue, Jersey City, New Jersey.

18. Mayflower is a New York corporation located at 1 State Street Plaza, New York, New York, doing business as a broker-dealer in securities and has been so registered with the Commission since July 25, 1963. Mayflower's first trade in MD shares occurred September 27, 1972 with a sale of 500 MD shares to Global. Between September 27, 1972, and December 1, 1972, Mayflower purchased 9,078 shares of MD in the over-the-counter market. Of these 7,247 shares or 80 per cent were sold to Global. On August 20, 1970, pursuant to an offer of settlement, the Commission found that Mayflower wilfully violated Sections 5(a) and 5(c) of the Securities Act and Sections 15(c)(1) and 17(a)(3) of the Exchange Act and Rules 15c1-4 and 17a-3 thereunder and suspended Mayflower for 40 days from effecting transactions as an underwriter or member of a selling group of a registered public offering of securities (Securities Exchange Act Release No. 8961).

19. Cirello is and at least since September 1972 has been a trader at Mayflower. He was responsible for Mayflower's trading of MD shares. Cirello lives at 6 Stevens Road, Wallington, New Jersey.

20. Fairfield is a New York corporation doing business as a broker-dealer in securities and has been so registered with the Commission since June 30, 1972. Fairfield's first trade in MD occurred on September 29, 1972 with a sale of 250 MD shares to Global. Between September 29, 1972, and December 8, 1972, Fairfield purchased 4690 shares of MD in the over-the-counter market. Of these, 4,450 or 95 per cent were sold to Global. Fairfield's principal place of business is located at 15 Williams Street, Suite 1800, New York, New York.

21. Brennan, a/k/a Tucker Brennan, is and at least from September 1972 has been a trader and a principal at Fairfield. He is the only trader at Fairfield and was responsible for trading MD shares. Brennan lives at 91 Pitney Avenue, New Providence, New Jersey.

22. Hodge is an investor and one-third owner of a holding company which in turn owns Global. Hodge, or companies he owns or controls, own some 100,000 MD common shares. Between August 15, 1972 and November 1972, Hodge and his companies sold 11,200 MD common shares and purchased 44,150 shares. Hodge sold 3,000 shares to Global at 90¢ on September 8, 1972, representing Global's initial purchase, and acquired 5,000 shares from Global at $6 on November 22, 1972, allegedly to aid Global's support of MD in the open market. Hodge loaned $25,000 to Global in October 1972 to enable Global to maintain its net capital to purchase MD shares. Hodge resides at 6949 Sherwood Road, Philadelphia, Pennsylvania.

COUNT I

Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. 77e(a) and 77e(c): Offer, Sale and Delivery after Sale of Unregistered Securities

23. The Commission realleges and incorporates by reference in this Count I each and every allegation contained in paragraphs 1 through 22 of this complaint.

24. Since on or about August 1972, and continuing to the date hereof, in the Southern District of New York and elsewhere defendants MD, Levy, Barrett, Goff, Hoffman, Watson, Global, Langenauer, David Langenauer, Oschers, Schneider, Carno, Nadino, Mayflower, Cirello, Fairfield, Brennan and Hodge, and each of them, singly and in concert, directly and indirectly, have been and are

offering for sale and selling securities, namely common shares of MD, and these defendants have been and are, directly and indirectly, making use of the means and instruments of transportation and communication in interstate commerce and of the mails to sell and to offer to sell such securities, and have been and are now causing such securities to be carried through the mails and in interstate commerce by the means and instruments of transportation for the purpose of sale and delivery after sale.

25. No registration statement has ever been in effect with the Commission under the Securities Act with respect to any securities of MD.

26. By reason of the foregoing, the defendants herein have, directly and indirectly, violated and aided and abetted violations of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. 77e(a) and 77e(c).

COUNT II

Section 17(a) of the Securities Act, 15 U.S.C. 77q(a) and Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b) and Rule 10b-5 thereunder: Fraud in the Sale of Securities

27. The Commission realleges and incorporates by reference in this Count II each and every allegation contained in paragraphs 1 through 26 of this complaint.

28. From on or about August 1972 and continuing to the date hereof, in the Southern District of New York and elsewhere, defendants MD, Levy, Barrett, Goff, Hoffman, Watson, Global, Langenauer, David Langenauer, Oschers, Schneider, Carno, Nadino,

Mayflower, Cirello, Fairfield, Brennan, and Hodge, directly and indirectly, in connection with the offer, sale and purchase of certain securities, namely the common shares of MD, by the use of the means and instruments and instrumentalities of interstate commerce and of the mails, have been and are now: (1) employing devices, schemes and artifices to defraud; (2) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading and (3) engaging in acts, practices and courses of business which would and did operate as a fraud and deceit upon purchasers and prospective purchasers.

29. In connection with the allegations in paragraph 28 of this complaint, the defendants made oral statements and issued a press release, letters, statements of account and other information to investors and prospective investors which were false and misleading as to, among other things:

a) The corporate and operational history of MD;

b) The registration of MD's securities with the Commission;

c) The expiration dates, conditions precedent, governmental requirements, and financing pertinent to the exercise of certain options owned by MD;

d) The future business prospects of MD, including an expected rise in price of its common shares;

e) The issuance of 960,000 common shares to Watson and MD's inability to recover these shares.

30. By reason of the foregoing, the defendants herein have, directly and indirectly, violated and aided and abetted violations of Section 17(a) of the Securities Act, 15 U.S.C. 77q(a) and Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b) and Rule 10b-5 thereunder.

WHEREFORE, the Securities and Exchange Commission, plaintiff herein, respectfully demands:

[illegible] Preliminary Injunction and a Permanent Injunction enjoining the defendants, their officers, directors, agents, servants, employees, attorneys, successors and assigns, and those persons in active concert and participation with them, and each of them, from, directly and indirectly,

1. Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, through the use or medium of any prospectus or otherwise, securities issued or to be issued by Management Dynamics, Inc., its subsidiaries or affiliates, or any other securities, unless and until a registration statement has been filed with the Securities and Exchange Commission as to such securities, or while a registration statement filed with the Securities and Exchange Commission as to such securities is the subject of a refusal order or stop order of the Securities and Exchange Commission, or (prior to the effective date of the registration statement), any public proceeding or examination under Section 8 of the Securities Act

2. Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell the securities issued or to be issued by Management Dynamics, Inc., its subsidiaries or affiliates, or any other securities through the use or medium of any prospectus, or otherwise, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities.

3. Carrying such securities or causing them to be carried through the mails or in interstate commerce by any means or instruments of interstate transportation for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities.

Provided, however, that nothing in the foregoing portion of the requested injunction shall apply to any security which is exempt from the provisions of Sections 5(a)and 5(c) of the Securities Act, as amended, 15 U.S.C.77e(a) and 77e(c), and

II. In connection with the offer for sale, sale and purchase of the common shares of Management Dynamics, Inc., any other securities issued or to be issued by Management Dynamics, Inc., its subsidiaries or affiliates, or any other securities, making use of the means and instruments and instrumentalities

of interstate commerce and of the mails, employing any device, scheme or artifice to defraud, engaging in acts, practices, or course of business which operate or would operate as a fraud or deceit upon any purchaser, and making untrue statements of material facts or omitting to state material facts, necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, including but not limited to:

(1) the business and operations of the issuer of any securities;

(2) the future prospects of the issuer of any securities;

(3) the registration of any issuer's securities with the Commission;

(4) profits to be derived from the purchase of any securities;

(5) the need for haste to make an investment in any securities; and

(6) the use of hyperbole.

III. Such other relief as this Court may deem necessary and proper.

s/ William D. Moran
WILLIAM D. MORAN
Regional Administrator

Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
26 Federal Plaza
New York, New York 10007
Telephone No.: (212) 264-1603

Of Counsel:
Donald Malawsky
(212) 264-1630
Roger M. Deitz
(212) 264-1603

Dated: New York, New York
June 13, 1973

ANSWER OF A.J. CARNO AND ANTHONY NADINO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

MANAGEMENT DYNAMICS, INC., A. J. CARNO, INC. and ANTHONY NADINO, et al.,

Defendants.

----------x

Judge Carter
73 Civ. 2642

ANSWER

Defendants, A. J. Carno, Inc. and Anthony Nadino, for their answer, alleged:

1. Deny the allegations contained in paragraphs 1, 3, 24, 26, 28, 29 and 30 of the complaint.

2. Deny knowledge or information with respect to the allegations set forth in paragraphs 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22 and 25 of the complaint.

3. Deny the allegations set forth in paragraph 16 in the complaint, except that they admit having traded Management Dynamics, Inc. common stock between September 28, 1972 and November 21, 1972.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE
TO COUNTS I AND II

4. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE
TO COUNT I

5. Defendant, A. J. Carno, Inc., is a broker-dealer in securities duly registered with the Securities and Exchange Commission.

6. Section 4(3) of the Securities Act of 1933, as amended, 15 U.S.C. 77d(c), exempts transactions by a dealer from the provisions of Section 5 of the Securities Act of 1933, as amended, 15 U.S.C. 77e.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE
TO COUNT I

7. The Management Dynamics, Inc. common stock traded by defendants, A. J. Carno, Inc. and Anthony Nadino, constituted brokers' transactions executed upon customers orders in the over-the-counter market.

8. Section 4(4) of the Securities Act of 1933, as amended, 15 U.S.C. 77d(d), exempts brokers' transactions executed upon customers' orders in the over-the-counter market.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE
TO COUNT I

9. This Court lacks jurisdiction over the subject matter in that the complaint fails to allege with specificity facts indicating that the defendants, A. J. Carno, Inc. and Anthony Nadino (a) employed a device, scheme and artifice to

defraud; (b) made any untrue statement of a material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in an act, practice or course of business which operated as a fraud or deceit upon purchases or prospective purchases of securities.

WHEREFORE, defendants, A. J. Carno, Inc. and Anthony Nadino, respectfully request that the complaint against them be in all respects dismissed.

Yours, etc.

FELDSHUH & FRANK
Attorneys for A.J. Carno, Inc.
and Anthony Nadino, defendants
Office & P.O. Address
144 East 44th Street
New York, New York 10017

NOTICE OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION Plaintiff, -against- MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE Defendants.	73 Civil Action File No. 2642 (RLC) NOTICE OF MOTION

S I R S :

PLEASE TAKE NOTICE, that upon the plaintiff's complaint herein, the Affidavit of Roger M. Deitz, in support of plaintiff's motion for a preliminary injunction and upon all other papers and exhibits in support thereof, the undersigned will move this Court before the Honorable Robert L. Carter, Judge of the United States District Court for the Southern District of New York,

NOTICE OF MOTION

Foley Square, Borough of Manhattan, City and State of New York on August 10, 1973, at 10:00 o'clock in the forenoon of that day, in Room 905, pursuant to Rule 65 of the Federal Rules of Civil Procedure for an Order of Preliminary Injunction enjoining the defendants Management Dynamics, Inc., William N. Levy, Edwin Barrett, Clyde Goff, Ephraim Hoffman, Peter R. Watson, Global Securities, Inc., Allen Langenauer, David Langenauer, Bernard Oschers, Lee Schneider, A. J. Carno, Inc., Anthony Nadino, Mayflower Securities, Inc., Joseph Cirello, Fairfield Securities, Inc., Thomas F. Brennan, III and Samuel D. Hodge, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with them and each of them from further violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, as amended, 15 U.S.C. 77e(a), 77e(c) and 77q(a) and Section 10(b) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78j(b) and Rule 17 CFR 240.10b-5 thereunder; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

s/ William D. Moran
WILLIAM D. MORAN
Regional Administrator

Counsel for Plaintiff,
SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York 10007
Telephone No.: (212) 264-1603

Dated: New York, New York
July 20, 1973

AFFIDAVIT IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, -against- MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE Defendants.	73 Civil Action File No.2642 (RLC) AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROGER M. DEITZ, being duly sworn, deposes and says:

1. I am employed by the U.S. Securities and Exchange Commission ("Commission"), as an attorney and am assigned to its New York Regional Office. I make this affidavit in support of the Commission's motion for a preliminary injunction against defendants Management Dynamics, Inc. ("MD"), William N. Levy ("Levy"), Edwin Barrett ("Barrett"), Clyde Goff ("Goff"),

AFFIDAVIT IN SUPPORT OF MOTION

Ephraim Hoffman ("Hoffman"), Peter R. Watson ("Watson"), Global Securities, Inc. ("Global"), Allen Langenauer ("Langenauer"), David Langenauer, Bernard Oschers ("Oschers"), Lee Schneider ("Schneider"), A. J. Carno, Inc. ("Carno"), Anthony Nadino ("Nadino"), Mayflower Securities, Inc. ("Mayflower"), Joseph Cirello ("Cirello"), Fairfield Securities, Inc. ("Fairfield"), Thomas F. Brennan, III ("Brennan"), and Samuel D. Hodge ("Hodge") to enjoin them from further violations of Sections 5(a) and 5(c) and 17(a) of the Securities Act of 1933 ("Securities Act"), as amended, and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act:), as amended, and Rule 10b-5 thereunder.

2. I am familiar with the matters alleged in the Commission's complaint and have participated in the investigation of this matter. I have examined the Commission's public and private files concerning the defendants and members of the public who had transactions with the defendants with respect to the common stock of MD. In connection therewith I have also examined:

a) brokerage accounts and related documents;

b) correspondence and related documents; and

c) other records and documents pertaining to the facts stated in this affidavit.

3. I have participated in the interrogation of the individual defendants, and others, and have examined the transcripts of their testimony.

THE DEFENDANTS

4. MD is a New Jersey corporation with principal offices at 1524 Walnut Street, Philadelphia, Pennsylvania. MD has never registered its securities with the Commission pursuant to either the Securities Act or the Exchange Act. 1/ Since September of 1972, the principal business of MD has been land development. It has realized no income from this activity. Indeed, since incorporation, MD has not reported a profit.

5. On December 8, 1972, the Commission suspended the over-the-counter trading of MD securities because the company could not account for 960,000 of its unregistered common shares. These shares had been issued in October and November 1972 in 5,000-share units in the name of Peter R. Watson. They carried no restrictive legend; such legend would have indicated that these shares had not been registered with the Commission.

6. The suspension was ordered also because of a rapid rise in the bid in MD common shares from 1/4 in August 1972 to $6 in December 1972 2/ and the absence of accurate and complete

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1/ The attestation of the Secretary of the Commission of non-registration of MD shares pursuant to the Securities Act and the Exchange Act is attached as Exhibit A.

2/ MD shares were traded in the over-the-counter market. In connection therewith, bid and offer quotations for the purchase and sale of MD shares were published in the National Quotation Bureau "Pink Sheets", which are distributed nationally to broker-dealers and others.

information concerning MD and its history. In its release ordering the suspension the Commission also indicated that none of MD's shares had ever been registered. On March 21 the Commission terminated this trading suspension.

7. Levy is an attorney admitted to practice in the State of New Jersey. His office address is 130 North Broadway, Camden, New Jersey. Levy specializes in a securities law practice. Since the incorporation of MD he has been its chief counsel and also has been its secretary and a director. Levy is the prime architect of the violative acts alleged herein.

8. Barrett is and since September 6, 1972, has been president and chief operating officer of MD. His home address is 815 Lukens Lane, Springfield, Pennsylvania.

9. Goff is and since July 1972 has been vice president and a director of MD. Goff resides at 131 Dutton Street, Ridley Park, Pennsylvania. As of December 1972, the company's transfer records indicated Goff as the owner of 257,000 MD common shares. Since September 1972, he disposed of several thousand unregistered MD shares.

10. Hoffman is and since July 1972 has been vice president, treasurer and a director of MD. Hoffman resides at 600 Wayfield Road, Wynnewood, Pennsylvania. As of December 1972 the company's transfer records show Hoffman owning 229,000 MD common shares. Since September 1972 he disposed of several thousand unregistered MD shares.

11. Watson was engaged by MD in October and November 1972 to sell 960,000 unregistered MD common shares. These shares were issued to Watson in his name in 5,000-share units and bore no restrictive legend. These are the shares which were one of the causes for the Commission's suspension of over-the-counter trading in MD securities. These shares were retained by Watson for more than five weeks. Watson's attempts to dispose of these shares were unsuccessful. On April 12, 1973, Watson was indicted in the United States District Court for the Middle District of Florida for conspiracy to make and transport forged and counterfeit securities, to use such securities as collateral for loans and to "arrange and plan for the distribution of stolen and counterfeit securities, notes, and bonds." Watson resides at 3140 Bay Shore Boulevard,N.E., St. Petersburg, Florida.

12. Global is a New Jersey corporation doing business as a broker-dealer in securities and has been so registered with the Commission since March 26, 1972. Global maintains its principal place of business at 120 West Seventh Street, Plainfield, New Jersey. From September to December 1972, Global purchased 37,322 shares of MD in the over-the-counter market and sold 26,576 shares to its retail customers. 3/

3/ In error, the Commission's complaint indicated that Global had purchased 34,482 and sold 20,346 MD shares.

13. Langenauer is and since February 1972 has been president, treasurer and a director of Global. He has been associated with various other broker-dealers since 1968. He resides at 202 Harding Road, Scotch Plains, New Jersey.

14. David Langenauer, the father of Langenauer, is and since February 1972 has been vice president, secretary and a director of Global. He resides at 1111 Raritan Road, Scotch Plains, New Jersey. He and his son are the chief operating officers of Global.

15. Oschers is and since at least September 1972 has been a salesman at Global. He was directly responsible for the sales of several thousand unregistered MD shares. Oschers' home address is 28 Duncan Avenue, Jersey City, New Jersey.

16. Schneider, a/k/a Leon Schneider, is and since at least September 1972 has been a salesman at Global. He was directly responsible for the sale of several thousand unregistered MD shares. Schneider's home address is 37 Bryant Drive, Livingston, New Jersey.

17. Carno is a New York corporation doing business as a broker-dealer in securities and has been so registered with the Commission since October 25, 1960. Between its first trade with Global on September 28, 1972 and its last on November 21, 1972, Carno purchased 11,228 shares of MD in the over-the-counter market. Of these, 9,825 shares or 88 per cent were sold to Global. Carno's principal place of business is 42 Broadway, New York, New York.

18. Nadino is and since September 1972 has been vice president in charge of trading at Carno. Nadino has supervisory responsibility for Carno's trading department and personnally (sic) handled Carno's MD trading. Nadino lives at 129 Roosevelt Avenue, Jersey City, New Jersey.

19. Mayflower is a New York corporation located at 1 State Street Plaza, New York, New York, doing business as a broker-dealer in securities and has been so registered with the commission since July 25, 1963. Mayflower's first trade in MD shares occurred September 27, 1972 with the sale of 500 MD shares to Global. Between September 27, 1972, and December 1, 1972, Mayflower purchased 9,078 shares of MD in the over-the-counter market. Of these 7,247 shares or 80 per cent were sold to Global. On August 20, 1970, pursuant to an offer of settlement in an administrative proceeding in which Mayflower was named as a respondent, the Commission found that Mayflower willfully violated Sections 5(a) and 5(e) of the Securities Act and Sections 15(c)(1) and 17(a)(3) of the Exchange Act and Rules 15c1-4 and 17a-3 thereunder and suspended Mayflower for 40 days from effecting transactions as an underwriter or member of a selling group of a registered public offering of securities (Securities Exchange Act Release No. 8961).

20. Girello is and at least since September 1972 has been a trader at Mayflower. He was responsible for Mayflower's trading of MD shares. Cirello lives at 6 Stevens Road, Wallington, New Jersey.

21. Fairfield is a New York corporation doing business as a broker-dealer in securities and has been so registered with the Commission since June 30, 1972. Fairfield's first trade in MD occurred on September 29, 1972 with the sale of 250 MD shares to Global. Between September 29, 1972, and December 8, 1972, Fairfield purchased 4,690 shares of MD in the over-the-counter market. Of these, 4,450 or 95 per cent were sold to Global. Fairfield's principal place of business is located at 15 William Street, Suite 1800, New York, New York.

22. Brennan, a/k/a Tucker Brennan, is and at least from September 1972 has been a trader and a principal at Fairfield. He is the only trader at Fairfield and was responsible for trading MD shares. Brennan lives at 91 Pitney Avenue, New Providence, New Jersey.

23. Hodge is an investor and one-third owner of a holding company which in turn owns Global. Hodge, or companies he owns or controls, own some 100,000 MD common shares. Between August 15, 1972, and November 1972, Hodge and his companies sold 11,200 MD common shares and purchased 44,150 shares. Hodge sold 3,000 shares to Global at 90 cents per share on September 8, 1972, representing Global's initial purchase, and acquired 5,000 shares from Global at $6 per share on November 22, 1972, allegedly to aid Global's support of MD in the open market. Hodge loaned $25,000 to Global in October 1972 to enable Global to maintain its net capital to purchase MD shares. Hodge resides at 6949 Sherwood Road, Philadelphia, Pennsylvania.

THE SCHEME

24. This was a scheme to create an artificial demand for MD shares through false and misleading releases from the company and others.4/ As a result, the over-the-counter bid of MD shares rose from 1/4 in August 1972 to over $6 in December 1972, when the Commission suspended over-the-counter trading in MD securities. In connection with this activity, in October and November 1972, MD sold 43,125 unregistered shares to seven persons for $33,750. It also attempted to sell 960,000 additional shares through Watson. Levy, Hoffman, Goff and Barrett all participated in these sales and offers of MD shares for sale.

25. These offers and sales were made possible by the artificial market in MD shares created and maintained by defendants Global, Langenauer, David Langenauer, Oschers, Schneider, Carno, Nadino, Mayflower, Cirello, Fairfield and Brennan and by the financial assistance of Hodge. In connection with this activity, Carno, Mayflower, and Fairfield caused bid and offer quotations to be published in the Pink Sheets, which are disseminated to brokers and dealers throughout the country. 5/

26. The violative activity took place in two related arenas: 1) Fraudulent Statements; and 2) Sales of Unregistered Securities.

4/ These documents were: a shareholder's letter of August 15, 1972, signed by Levy (attached hereto as Exhibit B); a press release dated October 13, 1972, issued by the company (attached hereto as Exhibit C); and a president's letter dated October 25, 1972, signed by Barrett (attached hereto as Exhibit D).
5/ Schedules of purchases and sales by brokers Global, Carno, Mayflower, and Fairfield are attached hereto as Exhibits E,F,G, and H respectively.

FRAUDULENT STATEMENTS

27. In the first arena, immediately after Levy, Hoffman, Goff and Barrett engineered the infusion of some of Barrett's properties and options to acquire property in return for 2,700,000 unregistered MD shares, these four prepared and disseminated letters and a press release which described these assets in inflated terms and omitted to state the history of MD, principally, that prior to the infusion of Barrett's assets, it was a shell and that its shares were never registered with the Commission. These letters and press release were distributed widely to shareholders, broker-dealers, and others; they are the subject of the fraud allegations herein.

THE AUGUST 15, 1972 LETTER

28. The August 15, 1972 letter was false and misleading in that it omitted to state several salient negative facts. The letter made no mention of the company's history or present activities. Unaudited financial statements attached to the letter, however, described the principal assets of the company as follows:

9.14 acres of ground in Red Hill, Pa.	$ 98,000
Apartment site inPhiladelphia, Pa.	32,363
	$130,363
Option to acquire land in Bass River Township, New Jersey	$ 1,100
Option to acquire land in Harleysville, Lower Salford Twp., Pennsylvania $13,090 subject to liabilities of $8,600	4,490
	5,590
	$135,953

29. Neither the letter nor the financial statements mentioned the expiration date of the options (some of which were only months distant) nor conditions precedent. These conditions included considerable governmental regulations for water, sewage, lot division, and other zoning matters, which had to be satisfied before the options could be exercised and substantial financing which had to be obtained before any construction could commence on the properties if the options were exercised.

30. In addition, the letter failed to mention that MD securities had never been registered with the Commission. It also omitted to state that from MD's incorporation in January 1969 to and including the resuscitation of the company by Barrett, Levy, Hoffman and Goff, MD issued some 4,000,000 shares of its common stock to over 100 persons. In September, in connection with the infusion of Barrett's assets, MD shareholders authorized the authorized shares to be increased from 2,000,000 to 8,000,000.

31. The August 15th letter was the only public information disseminated by MD concerning its business operations until the publication of the October 13 news release and the October 25th letter. During the period between these two letters, the over-the-counter bid for MD common shares rose from 1/4 to $5 per share. The Commission's investigation indicates that the August 15th letter, which was widely distributed to shareholders, brokers and others influenced this price rise.

AFFIDAVIT IN SUPPORT OF MOTION

THE OCTOBER 25 LETTER AND OCTOBER 13 NEWS RELEASE

32. The October 25 letter, which was distributed to shareholders, broker-dealers and others, described the MD properties yet it was fraudulent in that it omitted any mention of the several obstacles MD would have to overcome before its options could be exercised and properties developed.

33. That letter described developmental property in Red Hill, Pennsylvania, and projected that construction would begin in February 1973. A letter issued March 13, 1973, by MD prior to the Commission lifting the suspension of over-the-counter trading of MD's shares indicated that construction had not begun and that development was dependent upon financing, which could not be assured.

34. Also mentioned in the October 25 letter were the following statements:

> We own 50% of an option to purchase a large tract of land in Bass River Township, Burlington County, New Jersey . . . on which we are planning to develop a new community under Title VII of the Federal Housing and Urban Development Act of 1970. As further developments occur in this massive and complex undertaking I will keep you informed.
>
> We also have an option to acquire 77 acres of ground within 3 miles from the Lansdale exit of the Pennsylvania Turnpike, with 1700 feet of frontage on Pennsylvania State Highway Route 63. Our intention is to build a planned residential development consisting of town houses, garden apartments, and single family dwellings . . . some 250 units in all.
>
> However, this is contingent upon the successful achievement of zoning changes permitting such construction. Our application for these changes is now pending, and we expect to receive a yes or no by the end of January, 1973.

> In addition to the above, we have recently secured an option to buy 700 acres of ground in Burlington County, N.J., on which we plan to build a retirement community. Some details of this transaction are contained in the accompanying news release."

35. These statements are false and misleading in that they did not indicate the substantial regulatory approval from zoning, sanitation, and other boards at local, state, and federal government and substantial commitments of many millions of dollars that would have to be obtained before any development of these properties could commence.

36. In addition, the expiration dates of these options, several of which were of short duration, were not disclosed. The news release of October 13, 1972, spoke glowingly of the Burlington County property, but indicated none of the obstacles to development.

37. Devendants (sic) Levy, Barrett, Hoffman and Goff participated in the preparation of the false and misleading reports attached hereto as Exhibits B, C, and D, and each of these defendant (sic) approved these reports for distribution to the public and authorized such distribution.

THE DISTRIBUTION OF UNREGISTERED SHARES

38. The false and misleading letters and news release were widely distributed to brokers and dealers, some of which conducted an active market in MD shares.

39. At the center of this activity was Global, which from September 8, 1972 to December 8, 1972 purchased 37,322 shares at prices from 90 cents to $6 5/8. Of these 26,576 were sold to members of the public at prices from $2 1/2 to $6 5/8. Exhibit E details Global's purchases and sales of MD common stock. Many of Global's customers were solicited "blind" from telephone books and other similar sources by Langenauer, David Langenauer, Oschers and Schneider. These customers were provided with the MD letters and release also told by Global and its employees that MD shares would double in a short period of time and that the shares would reach a certain price. Global made no inquiry to ascertain whether the MD shares they were selling were ever registered with the Commission.

40. Hodge, who owned one-third of a corporation which owned Global, supplied Global with $25,000 during October 1972 to enable Global to continue to maintain its support of MD in the over-the-counter market. In early September, Hodge had sold Global 3,000 shares of MD, Global's first acquisition of the stock at one-half the market price of MD at the time. Later in November, Hodge or his companies, Hodge Record Co., Inc. and Paramount Record Manufacturing Co., Inc. purchased several thousand MD shares from Global and thus aided and abetted the drive to push up the price of MD shares. Hodge's participation in the scheme is further described in paragraph 23, supra.

41. In connection with this distribution, Carno, Mayflower and Fairfield made markets in MD shares, publishing

quotations in the Pink Sheets and supplying Global with the bulk of its requirement. The participation of these brokers in this scheme is detailed in Exhibits F, G and H attached hereto. These broker-dealers who maintained primary markets in MD failed to exercise due diligence in investigating MD before trading its shares. Among other things, such inquiry would have revealed that MD shares were never registered with the Commission. Defendants Nadino, Cirello, and Brennan, traders at the above firm, testified before the Commission's staff that they made no inquiry whether MD shares had been registered with the Commission, and that, if they had known that MD had never registered its shares, they would not have traded the stock. Furthermore, by their appearance in the Pink Sheets these brokers lent their names and prestige to trading in MD shares.

42. These defendant traders stated that there was no reasonable basis for a $6 bid for MD shares. This bid, at the time of suspension of trading in MD shares, based on the number of shares issued and outstanding and the bid price quoted in the Pink Sheets would have placed a $24,000,000 value on the company. Testimony of the traders indicated that the bid reached a $6 level due to Global's demand for MD shares.

43. The extent of each broker's participation in the illegal distribution of MD shares is specifically described in paragraphs 17 through 22, supra.

44. While an artificial market for MD shares was maintained by Global's purchases and the company's false releases,

MD, by its board of directors, sold 43,125 unregistered common shares to seven purchasers for $33,750. These sales were at a substantial discount from the prevailing market price, and there was no disclosure of these sales to shareholders, brokers, or the public. They also arranged for the delivery of 960,000 unregistered MD shares to Watson for an alleged private placement.

45. Five Hundred and sixty thousand (560,000) of these these (sic) shares were personally delivered by Levy in the last week of October, 1972 to Watson in Florida. Approximately one week later 400,000 additional shares were mailed to Watson in Dallas, Texas. All 960,000 shares were prepared by the transfer agent at the company's request as transmitted by Levy, in 5,000 share units registered in Watson's name and bore no restrictive legend.

46. Watson was to have offered these shares to an unidentified European purchaser who wanted legendless certificates. The price was to be 20 percent of the then approximately $5 per share over-the-counter bid. The company never knew the identity of the purchaser or purchasers, and its officers testified that the stock may have been offered to several persons while in Watson's possession.

47. Over six weeks passed, however, the shares remained unsold and the company was unable to recover them when the Commission suspended trading in MD securities to alert the brokerage community to the existence of these shares.

48. Watson initiated the placement of at least 200,000 MD shares in New York and 5,000 in Tampa, Florida in November 1972. An attempt was made to pledge these 200,000 shares as security for a loan at the Central Cleveland International Bank, 40 Wall Street, New York, New York, but the bank refused to accept the shares as collateral. Watson travelled extensively around the United States offering MD shares for sale or use as collateral for loans.

49. Levy's involvement in the violative activity is pivotal and bears additional mention. Levy is the only defendant whose relationship to MD spans MD's entire existence. Since MD's inception in 1969 when Levy was a founder of the company, he served as an officer, director and counsel to the company.

50. As such, he had intimate knowledge of and participated in over 100 separate sales of unregistered MD shares. He himself purchased MD shares for as little as a penny a share in 1969 and received additional shares as compensation for legal work on subsequent dates.

51. Levy also had intimate knowledge of the company's past activities, including the failure of the company's business ventures and the fact that MD was a shell prior to the infusion of Barrett's assets. Despite a first hand knowledge of these facts, Levy omitted to include them in the company's letters and press releases to the public.

52. Levy had attempted to infuse Barrett's assets into another shell, Camusa Holdings, Ltd. When that attempt failed, he guided Barrett to MD. Barrett testified that his purpose in back dooring his assets into MD was to avoid the delay and expense of registration of shares with the Commission. Barrett and others have also testified that Levy helped prepare and reviewed the fraudulent company letters and press release and caused them to be distributed through the mails to shareholders and others.

53. Levy also was the company's contact with Watson. Levy's legal opinion letters authorized the preparation of Watson's shares in certificates of small denominations without legend. On October 25, 1971 by letter to MD's stock transfer agent Levy directed the preparation of 560,000 shares in Watson's name and a subsequent letter of November 1, 1972 directed the preparation of an additional 400,000 shares. (These letters are attached hereto as Exhibits I and J). Levy personally delivered 560,000 shares Watson in Florida. He caused the additional 400,000 shares to be sent one week later by air freight to Watson, who was then in Dallas, Texas, despite the fact that the original 560,000 shares had neither been sold nor returned to the company. Levy testified that he was unable to learn from Watson the progress of Watson's sales efforts.

54. As an officer, director, and particularly as counsel to MD, Levy should have prevented the false releases, sale of unregistered shares, and the issuance of shares to Watson. Quite to the contrary, he participated intimately in these events.

55. In addition, Levy directed at least one individual who expressed an interest to acquire MD shares to Hodge, who sold 2,500 shares to this purchaser. Levy also was familiar with Global's sales efforts and knew of Hodge's loan of $25,000 to Global in the fall of 1972.

56. Throughout the activity described herein, the phones, mails and commercial air lines were employed to disseminate the fraudulent letters and releases, to transport MD shares, and to purchase and sell MD shares.

57. The conduct of these defendants demonstrates that they have acted contrary to the best interests of the public, that they have violated the law, and should be enjoined from further violations with respect to MD securities and any other securities.

58. No prior application for the relief requested herein has been made to any Court or Judge thereof.

WHEREFORE, plaintiff Commission respectfully requests that its motion for a preliminary injunction be granted.

/s/ Roger M. Deitz
ROGER M. DEITZ

Sworn to before me this
18th day of July 1973

s/ Henry Wong
NOTARY PUBLIC
Henry Wong
Notary Public, State of New York
No. 31-4388135
Qualified in New York County
Commission Expires March 30, 1975

AFFIDAVIT IN OPPOSITION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, - against - MANAGEMENT DYNAMICS, INC., A. J. CARNO, INC., ANTHONY NADINO, et al., Defendants.	JUDGE CARTER 73 Civil 2642 AFFIDAVIT IN OPPOSITION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROBERT BERKSON being duly sworn deposes and says deponent is the president of A. J. Carno, Inc. (CARNO), one of the defendants in the within action and makes this affidavit in opposition to the plaintiff's motion for a preliminary injunction against defendant CARNO and defendant ANTHONY NADINO (NADINO), an officer of Carno.

Deponent has read the affidavit of Roger M. Deitz in support of the order for a preliminary injunction which affidavit admittedly is upon information furnished to him by others and an examination of records presently in the possession of the Commission.

Affidavit in Opposition

Deponent denies all of the allegations referred to in the complaint insofar as it alleges any action by the defendant CARNO or NADINO, either singly or in concert, violative of the Secruties Act of 1933 as amended and more specifically Sections 5(a), 5(c), and Section 17(a) thereof and Section 10(b) of the Securities Exchange Act of 1934 or Rule 10b-5 promulgated thereunder.

Defendant CARNO commenced trading the securities of MANAGEMENT DYNAMICS, INC. in June of 1971, a period of at least one year prior to any alleged violations relating to the securities of MANAGEMENT DYNAMICS, INC. All of the transactions in the securities of that company executed by CARNO except for one sale as broker for a customer were made on the professional market in the same manner as all other securities are traded by CARNO.

No agreement, arrangement or other understanding of any nature or kind ever existed between CARNO and NADINO and any other person or entity insofar as the securities of MANAGEMENT DYNAMICS, INC. is concerned. Except for an event which took place in September or October of 1972 no meeting was ever held between principals of CARNO or any of the other defendants with relation to the stock of MANAGEMENT DYNAMICS, INC.

Some time during the month of September or October 1972 without prior appointment Mr. Edwin Barrett, William

Levy, a Miss Pauline Kirschenbaum (a registered representative at the brokerage firm of Adams and Peck) and a third gentleman called at the office of CARNO reportedly to advise those firms which traded the securities of the company of new developments which alegedly occurred in the company. A brief discussion concerning the company lasted for some ten minutes whereupon all said individuals left except for Mr. William Levy, an attorney and officer of the company. Mr. Levy remained a few minutes longer than the others and then departed. During his brief stay Mr. Levy discussed the trading of the stock of MANAGEMENT DYNAMICS, INC. and advised your deponent that he could be called upon should deponent require any information concerning the trading of the stock of MANAGEMENT DYNAMICS, INC.

Thereafter deponent may have spoken on three or four occasions to Mr. Levy subsequent to October 1972.

Defendants CARNO and NADINO did not enter into or participate in any scheme relating to the stock of MANAGEMENT DYNAMICS, INC. CARNO did not submit any fictitious bids or quotations to aid any violation of the Securities Act nor did CARNO or NADINO utter or make any fraudulent statements or sell knowingly any unregistered shares of MANAGEMENT DYNAMICS, INC.

It should be noted that NADINO has been a trusted employee of this firm. We took all adequate steps to educate

him as to the potential liability he faced for acting in this manner and we thereafter relied on NADINO to use his best judgment to follow the principles we tried to instill in him. However, if he acted improperly by trading the stock of MANAGEMENT DYNAMICS, INC., we believe that CARNO is not liable for any improper conduct by NADINO. We have been advised by counsel that CARNO should be exonerated under the recent decision of this Court in Securities and Exchange Commission v. Lum's Inc. CCH Fed. Sec. Rep. ¶94, 134 (U.S.D.C., S.D.N.Y., Sept. 13, 1973).

Most importantly, I wish to add that CARNO exercised that degree of due diligence required of it and maintained the records required by the Rules and Regulations of the Securities and Exchange Commission with respect to its transaction in the stock of MANAGEMENT DYNAMICS, INC. Moreover, as a broker-dealer, duly licensed by the Securities and Exchange Commission, CARNO should be entitled to an exemption from the provisions of Section 5 of the Securities Act of 1934, as amended, by the provisions of Sections 4(3) and 4(4) thereof.

We have also been advised by counsel that the extraordinary relief of a preliminary injunction may only be granted upon a dual showing of probable success on the trial and possible irreparable injury. As noted above, the facts belie the plaintiff's claim that they have demonstrated a probability of success on the trial. Moreover, due to the

large lapse of time between the date on which CARNO and NADINO made their last transaction in MANAGEMENT DYNAMICS, INC. and this date, it is clear that there has been no showing of irreparable injury to the public. Consequently, the application for a preliminary injunction against CARNO and NADINO should, in all respects, be denied.

WHEREFORE, deponent respectfully requests that the motion of the Commission for a preliminary injunction against CARNO and NADINO should, in all respects, be denied, or in the alternative, that this matter be set down for an evidentiary hearing pursuant to Rule 65 of the Federal Rules of Civil Practice.

/s/ Robert Berkson

Sworn to before me this
11th day of October, 1973

/s/ Martin M. Frank

Martin M. Frank
Notary Public, State of New York
No. 30-1299450
Qualified in Nassau County
Term Expires March 30, 1975

AFFIDAVIT IN OPPOSITION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff -against- MANAGEMENT DYNAMICS, INC., A. J. CARNO, INC., ANTHONY NADINO, et al., Defendants	73 Civil 2642 Judge Carter AFFIDAVIT IN OPPOSITION

State of New York)
: ss.:
County of New York)

ANTHONY NADINO, being duly sworn, deposes and says:

1. Deponent is a Vice-President in the Trading Department of A. J. Carno, Inc., and is one of the defendants named in the above-entitled action.

2. Deponent makes this affidavit in opposition to the plaintiff's motion for a preliminary injunction as against defendant Carno and your deponent.

3. Deponent denies each and every allegation of the complaint and in the affidavit of Roger Deitz, insofar as the same allege any action by deponent or by the defendant Carno, either singly or in concert, which in any way violated any of the provisions of the Securities Act of 1933, as amended, or the

Securities Exchange Act of 1934, or Rule 10b-5 promulgated thereunder.

4. In June, 1971, while in the employ of Carno as a trader, deponent selected the securities of Management Dynamics, Inc. to trade on a professional basis. No person or any defendant named in this action, except for Carno, was known to deponent at that time. Annexed hereto and marked "Exhibit A" is a schedule of trades in the securities of Management Dynamics, Inc. made by deponent, for the period commencing June 9, 1971, up to January 1, 1972. As can be seen from said schedule, the securities of Management Dynamics, Inc. were purchased in the open market. So, too, is this information revealed in the motion papers of the plaintiff.

5. No agreement, arrangement or any other understanding, or any nature of kind whatsoever, in any way influenced or brought about deponent's decision to trade the securities of Management Dynamics, Inc.

6. At no time, did your deponent enter into any agreement with any person or party, in any way, to distribute or aid in the distribution of unregistered securities of Management Dynamics, Inc.

7. All securities of Management Dynamics, Inc., which were sold by your deponent, as the trader at Carno, were exempt from the registration requirements of Section 5

of the Securities Act of 1933, as amended, by reason of Section 4(3) and Section 4(4) thereof.

8. Deponent respectfully requests that the motion of the Commission, for an order of preliminary injunction against defendants Carno and Nadino, should be denied in all respects, or, in the alternative, that this matter be set down for an evidentiary hearing, pursuant to Rule 65 of the Federal Rules of Civil Procedure.

Sworn to before me this
31 day of July 1973.

/s/ Anthony Nadino

ANTHONY NADINO

/s/ Martin M. Frank

Martin M. Frank
Notary Public, State of New York
No. 50-1299450
Qualified in Nassau County
Term Expires March 30, 1975

EXHIBIT A

TRANSACTIONS INVOLVING MANAGEMENT DYNAMICS, INC.

Date of Purchase	Date of Sale	No. of Shares	Brokerage Firm
6/ 9/71		200	Herzog & Company
	6/21/71	200	Provident Securities
	6/21/71	200	Delphi Capital
	6/21/71	200	Hornblower Weeks
6/23/71		200	Ken Marshal
6/23/71	6/23/71	200	Raffels
	6/25/71	100	Estabrook & Co.
6/28/71		300	Bache & Co.
	6/28/71	300	Delphi Capital
	7/ 1/71	100	Herzog & Company
7/ 6/71		100	Herzog & Company
	7/ 6/71	200	Hornblower Weeks
	7/16/71	200	Delphi Capital
7/20/71		200	Bache & Co.
	7/22/71	200	Bertner Brothers, Inc.
7/23/71		500	Thomson & McKinnon
7/27/71		107	Bache & Co.
7/28/71		200	Selheimer
7/29/71		300	Estabrook & Co.
8/24/71		100	Delphi Capital
9/21/71		7	Merrill Lynch
10/21/71		650	Eastman Dillon
10/27/71		1000	Eastman Dillon
	11/ 3/71	1100	Ken Marshall
	11/10/71	1100	Ken Marshall
11/11/71		501	Herzog & Company
11/16/71		700	Raffel
	11/19/71	1100	Friedman Mangor
11/22/71		4000	Eastman Dillon
	11/23/71	554	Bache & Co.
	11/23/71	200	Butcher & Sherrerd
	12/14/71	300	Elkins Morris
	12/14/71	200	Elkins Morris
	12/31/71	1100	Friedman & Co.

ANSWER OF DEFENDANT WILLIAM N. LEVY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff, : 73 Civil 2642

- against - : ANSWER OF DEFENDANT, WILLIAM N. LEVY

MANAGEMENT DYNAMICS, INC.
WILLIAM N. LEVY
EDWIN BARRETT :
CLYDE GOFF
EPHRAIM HOFFMAN
PETER R. WATSON :
GLOBAL SECURITIES, INC.
ALLEN LANGENAUER
DAVID LANGENAUER :
BERNARD OSCHERS
LEE SCHNEIDER
A.J. CARNO, INC. :
ANTHONY NADINO
MAYFLOWER SECURITIES, INC.
JOSEPH CIRELLO :
FAIRFIELD SECURITIES, INC.
THOMAS F. BRENNAN, III
SAMUEL D. HODGE :

Defendants.

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THE DEFENDANT, WILLIAM N. LEVY, by his Attorney's LIPKIN, GUSRAE & HELD for his answer to the complaint of the Plaintiff, SECURITIES AND EXCHANGE COMMISSION, ("Commission") alledges as follows:

FIRST: Defendant, William N. Levy ("Levy") denies each and every allegation contained in paragraph #1 of the Commission's complaint.

SECOND: Defendant, Levy denies each and every allegation contained in paragraph #2 of the Commission's complaint.

THIRD: Defendant, Levy denies each and every allegation contained in paragraph #3 of the Commission's complaint.

FOURTH: Defendant Levy admits the allegations contained in paragraph #4 of the Commission's complaint.

FIFTH: Defendant Levy denies each and every allegation contained in paragraph #5 of the Commission's complaint, except that the defendant Levy, upon information and belief, admits that the defendant, Management Dynamics, Inc., (defendant "MD") is a New Jersey Corporation with its principal offices at 1524 Walnut Street, Philadelphia, Penn., that defendant MD has never filed with the Commission a registration statement pursuant to either the Securities Act of 1933 as amended, or the Securities and Exchange Act of 1934; that since September, 1972, the principal business of the defendant MD has been Land Development; and the defendant MD has received no income from this activity nor has the defendant MD ever reported a profit; that during October and November of 1972, the defendant MD sold 43,125 shares of MD stock to seven purchasers for $33,750; that on or about December 8, 1972, the Commission suspended the over-the-counter trading of MD securities; that the Commission's suspension release noted the rise in the bid of MD common stock

in August of 1972 through December, 1972; and on or about March 21, 1973, the Commission terminated the aforementioned trading suspension.

SIXTH: Defendant Levy denies each and every allegation contained in paragraph #6 of the Commission's complaint, except that the defendant Levy admits that he is an Attorney admitted to practice in the State of New Jersey, that his office address was 130 North Broadway, Camden, New Jersey, that he has represented clients in matters involving Securities Law practice and that since the Incorporation of defendant MD, the defendant Levy has been Secretary, a director and has represented Defendant MD in certain legal metters.

SEVENTH: Defendant Levy denies each and every alligation contained in paragraph #7 of the Commission's complaint, except that upon information and belief the defendant admits that the defendant Edwin Barrett ("Barrett") is and since September 6, 1972 has been the President and Chief Operating Officer of the defendant MD: that the defendant Barrett's home address is 815 Lukens Lane, Springfield, Penn., and that the Defendant Barrett presently owns over 2,000,000 shares of MD common stock.

EIGHTH: Defendant Levy denies each and every allegation contained in paragraph #8 of the Commission's complaint, except that the defendant Levy, upon information and belief

admits that the defendant Clyde Goff ("Goff") is and since July, 1972 has been a Vice President and Director of the defend- and MD: that the defendant Goff resides at 131 Betton Street, Wrigley Park, Penn., and the defendant Goff owns approximately 257,000 shares of MD common stock.

NINTH: Defendant Levy denies each and every allegation contained in paragraph #9 of the Commission's complaint except that upon information and belief defendant Levy admits that the Defendant Ephraim Hoffman ("Hoffman") is and since July, 1972 has been a Vice President, Treasurer, and a director of the Defendant MD: that the defendant Hoffman resides at 600 Wayfield Road, Wynnewood, Penn.; and that the defendant Hoffman owns app. 229,000 shares of MD common stock.

TENTH: Defendant Levy denies each and every allegation contained in the paragraph #10 of the Commission's complaint, except that upon information and belief, the defendant Levy admits that approximately 960,000 shares of MD common stock were issued to the defendant Peter R. Watson ("Watson") and that the defendant Watson resides at 3140 Bay Shore Blvd. N.E., Saint Petersberg, Florida.

ELEVENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #11 of the Commission's complaint.

TWELFTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #12 of the Commission's complaint.

THIRTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #13 of the Commission's complaint.

FOURTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #14 of the Commission's complaint.

FIFTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #15 of the Commission's complaint.

SIXTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #16 of the Commission's complaint.

SEVENTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #17 of the Commission's complaint.

EIGHTEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #18 of the Commission's complaint.

TWENTYFOURTH: Defendant Levy denies each and every allegation contained in paragraph #24 of the Commission's complaint, as each allegation may relate to the Defendant Levy and lacks sufficient knowledge and information necessary to form a belief with respect to the allegations in paragraph #24 of the Commission's complaint as they relate to the other defendants named in the complaint.

TWENTYFIFTH: Defendant Levy, upon information and belief, admits the allegations contained in paragraph #25 of the Commission's complaint.

TWENTYSIXTH: Defendant Levy denies each and every allegation contained in paragraph #26 of the Commission's complaint.

TWENTYSEVENTH: Defendant Levy repeats, realleges, and reiterates each and every answer contained in paragraph "First" through "Twentysixth" of this answer.

TWENTYEIGHTH: Defendant Levy denies each and every allegation contained in paragraph #28 of the Commission's complaint, as each allegation may relate to the Defendant Levy and lacks sufficient knowledge and information necessary to form a belief with respect tothe allegations in paragraph #28 of the Commission's complaint as they relate to the other defendants named in the complaint.

NINETEENTH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #19 of the Commission's complaint.

TWENTIETH: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #20 of the Commission's complaint.

TWENTYFIRST: Defendant Levy lacks sufficient knowledge and information to form a belief with respect to the allegations contained in paragraph #21 of the Commission's complaint.

TWENTYSECOND: Defendant Levy denies each and every allegation contained in paragraph #22 of the Commission's complaint except that upon information and belief Defendant Levy admits that defendant Samuel Hodge ("Hodge") is or was an investor in a holding company which owns or owned the controlling interest of the defendant Global Securities, Incorporated ("Global"); that Hodge or companies he owns or controls, owns approximately 100,000 shares of MD common stock; that Hodge and/or his companies sold 11,200 shares of MD common stock, and purchased 44,150 shares of MD common stock; that Hodge acquired 5,000 shares of MD common stock from Global at approximately $6.00 per share; that Hodge loaned $25,000 to Global in October of 1972; and that Hodge resides at 6949 Sherwood Road, Philadelphia, Penn.

TWENTYTHIRD: Defendant Levy repeats, realleges, and reiterates each and every answer contained in paragraphs "First" through "Twentysecond" of this answer as if more fully set forth herein.

TWENTYNINTH: Defendant Levy denies each and every allegation contained in paragraph #29 of the Commission's complaint, as each allegation may relate to the Defendant Levy and lacks sufficient knowledge and information necessary to form a belief with respect to the allegations in paragraph #29 of the Commission's complaint as they relate to the other defendants named in the complaint.

THIRTIETH: Defendant Levy denies each and every allegation contained in paragraph #30 of the Commissions complaint.

AS AND FOR
DEFENDANT LEVY'S FIRST
COMPLETE AND AFFIRMATIVE DEFENSE.

THIRTYFIRST: This Court lacks jurisdiction over the subject matter of this action.

AS AND FOR
DEFENDANT LEVY'S SECOND
COMPLETE AND AFFIRMATIVE DEFENSE.

THIRTYSECOND: The Southern District of New York is not the proper venue for this action inasmuch as this action is not properly before this Court and the Plaintiff should have instituted this action against the defendant Levy in the Federal District Court in the District in which the said defendant resides.

AS AND FOR
DEFENDANT LEVY'S THIRD
COMPLETE AND AFFIRMATIVE DEFENSE.

THIRTYTHIRD: Plaintiff has failed to state a claim against the defendant Levy upon which relief can be granted.

AS AND FOR
DEFENDANT LEVY'S FOURTH
COMPLETE AND AFFIRMATIVE DEFENSE.

THIRTYFOURTH: Any issuance of Securities by defendant MD which may have in fact taken place during the period alleged in the plaintiff's complaint, were exempt from the registration provisions of the Securities Act of 1933, as amended and the Securities and Exchange Commission Act of 1934.

AS AND FOR
DEFENDANT LEVY'S FIFTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTYFIFTH: With respect to any statements, oral or written, or letters which may be attributable to the defendant Levy, the defendant levy believed after exercising due dilligence that such statements were true, accurate, and complete at the time which such statements were made.

AS AND FOR
DEFENDANT LEVY'S SIXTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTYSIXTH: With respect to any and all statements, oral or written, letters or press releases, which were made by other defendants in this action, other than the defendant Levy, which may have been misleading or with respect to omissions to state material facts which omissions may be attributable to defendants other than the defendant Levy, the defendant Levy did not know and in the exercise of due dilligence, could not have known of such misstatements or omissions.

AS AND FOR
DEFENDANT LEVY'S SEVENTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTYSEVENTH: The Plaintiff's complaint contains statements and allegations which are highly prejudicial, and should be stricken from the complaint as such. Included in such prejudicial statements, but not by way of limitation are paragraph Six (6) naming the defendant Levy as "the prime Architect" and paragraph Eighteen (18) alleging prior enforcement action against the defendant Mayflower.

AS AND FOR
DEFENDANT LEVY'S EIGHTH
COMPLETE AND AFFIRMATIVE DEFENSE.

THIRTYEIGHTH: The action against the defendant Levy should be segregated and severed from the action against the other named defendant's.

WHEREFORE: Defendant Levy demands judgment against the plaintiff dismissing the Plaintiff's complaint and judgment of costs and disbursements against the plaintiff, Securities and Exchange Commission.

Lipkin, Gusrae & Held
225 Broadway
New York, New York
Attorneys for Defendant,
William N. Levy

AFFIDAVIT OF WILLIAM LEVY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 73 Civil Action

- against - : File No. 2642 (RLC)

MANAGEMENT DYNAMICS, INC., et al., : AFFIDAVIT

Defendants.:

- - - - - - - - - - - - - - - - - - -X

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

WILLIAM LEVY, being duly sworn, deposes and says:

(1) I am an attorney, duly admitted to practice before the Courts of the State of New Jersey and make this affidavit in opposition to the motion of the Securities and Exchange Commission ("COMMISSION") for an Order of Preliminary Injunction. I have read the affidavit of Roger M. Dietz and am fully familiar with all of the facts and circumstances stated in this affidavit, except where indicated.

(2) The defendant, Management Dynamics, Inc. ("MD"), to the best of my knowledge and recollection became public by virtue of and as the result of a merger with Northeastern Amusement Rides and Services, Corp. ("Northeastern"), a publicly held corporation. The transaction with Northeastern occurred on approximately June 26, 1969, wherein, Northeastern exchanged 80% of its common stock for 100% of the common stock of MD.

A statutory merger was part of the transaction and the name of Northeastern, the surviving company was changed to MD. There were no new issuances of MD stock to any member of the public except the already existing shareholders of Northeastern, but rather an exchange of the newly named MD stock for the old stock bearing the name of Northeastern. In other words, neither MD, nor the undersigned received any money or any consideration from any of the recipients of the newly named stock. It was nothing more than a change of the corporate name.

(3) Upon information and belief, Northeastern became public in 1965 by virtue of a stock dividend declared by Adson Industries, Inc. I had no connection whatsoever, nor to the best of my knowledge, did any person connected with MD have any connection with the issuance of Northeastern stock to the public by Adson Industries, Inc. which took place nine years ago.

(4) MD was incorporated under the laws of the State of New Jersey on or about January 3, 1969. At the time of incorporation, I, together with four other gentlemen was a founder of defendant MD. The par value of MD stock was $.01 per share and three of the incorporators were issued Two-Hundred and Seventy-Five shares each and two of the incorporators were issued five shares each. This transaction to the best of my belief, was exempt from the registration provisions of the Securities Act of 1933 ("Securities Act") pursuant to Section 4(2) of that Act as a transaction not involving a public-offering. Subsequently, a stock split of 200 to 1 increased the number of shares owned by the original founders of the company. At this point there were no other shareholders of MD.

(5) There appears to be no rule or regulation in the Securities Law requiring a registration statement when a company, whether private or public, changes its name. The mere fact that Northeastern may never have filed a Registration Statement in 1965 is immaterial and totally unrelated to the Commission's allegations regarding the undersigned.

(6) The exemption available from registration regarding the above referred to name change is embodied in Section 3(a)(9) and is more fully discussed in the Memorandum of Law and Fact which accompanies this affidavit. The affidavit of Roger Dietz implies in paragraph "4" thereof, that registration is also required for MD under the Securities Exchange Act of 1934. This point is also discussed in the accompaning Memorandum.

(7) Defendant, MD, is not a manufacturing company, but rather a company engaged in land development which historically does not produce immediate income. Therefore, Mr. Dietz's statement in paragraph "4" of his affidavit that the company (MD) has realized no income and has not reported a profit, although true, does not give a complete picture of the worth of the defendant MD. The company does own real-estate and does own options for real-estate.

(8) In paragraph "5" and "6" of Mr. Dietz's affidavit he states that the Commission suspended trading in MD stock for a variety of reasons. This statement by Mr. Dietz is not only misleading and contradicted by the undersigned, but is totally unsupported, unsubatantiated and contrary to the Commission's own release regarding the suspension. Annexed hereto as Exhibit "1" is a copy of the SEC News Digest for December 11, 1973(sic), together with a page from the SEC News Digest of March 19, 1973. Mr. Dietz, in his statement implies that the Commission discovering

the alleged scheme, suspended trading in MD stock. The release on the other hand and in particular the March 19, 1973 release states specifically " this suspension was requested by the company in order to permit dissemination of information concerning the company". (Emphasis added) In addition, the release of December 11, 1972 clearly shows that the Commission notes the price rise of MD stock but does not make it a reason for the suspension as stated in Mr. Dietz's affidavit (paragraph "6").

(9) Mr. Dietz also states that the suspension release (December 11, 1972) indicates that "none of MD shares have ever been registered". This too is not born out by the December 11, 1972 release where the only mention of unregistered shares regards the privately held shares and not the publicaly held shares. Although this point is neither helpful nor harmful to either side in the case before this Court, it is further evidence of the Commission's failure to properly investigate the facts and Mr. Dietz's propensity for exaggeration and total disregard for the facts as they truly exist.

(10) Mr. Dietz further states in paragraph "6" of his affidavit that the price of MD stock rose from ¼ in August, 1972 to $6.00 in December, 1972. Mr. Dietz, later in his affidavit annexes thereto, statements of trading records of broker/dealers. These statements directly contradict Mr. Dietz's statement on the price of MD shares. For instance, on the next to the last page of Exhibit "F" to Mr. Dietz's affidavit, the records of A. J. Carno clearly show that the lowest price at which MD was traded in August, 1972 was ½ and that was only on one day. The other

prices range from $1.00 to a high of $3.00 per share on August 14, 1972 which is exactly one day prior to the first alleged fraudulent MD letter. The records of other brokerage firms, which are annexed to Mr. Dietz's affidavit as Exhibits "E", "G" and "H" are equally unsupportive of Mr. Dietz's position.

(11) The allegation in paragraph "7" of Mr. Dietz's affidavit with regard to the undersigned are basically true with two notable exceptions. The first, aside from the change of my address is that I do not specialize in Securities Law but rather I specialize in Corporate Law which includes Securities Law. In addition, Mr. Dietz claims that I am the "prime architect" of the alleged scheme. I deny the existence of a scheme, I deny, as will be shown later in this affidavit, knowing some of the defendants and after reading the Commission's moving papers can not determine the nature of the alleged scheme or my alleged involvement therein.

(12) The allegation by Mr. Dietz in paragraph "9" of his affidavit states:"since September, 1972, he (defendant Goff) disposed of several thousand unregistered MD shares". The allegation is similiar in paragraph "10"of Mr. Dietz's affidavit with respect to the defendant Hoffman. The implication that Mr. Dietz is trying to convey is that Goff and Hoffman sold the referred to shares to the public. The implication is not only misleading but untrue. To the best of my knowledge, defendant Goff did in fact transfer 10,000 shares of MD stock. However, the transfer was to the undersigned who already owns restricted securities in MD and to no one else. Upon information and belief, the same is true for the defendant Hoffman with the exception of one other person who also already owned restricted MD shares.

(13) Mr. Dietz goes on to state that defendant Watson was engaged to offer and sell unregistered shares of MD stock. This again is untrue. Defendant Watson was authorized to offer the 960,000 restricted shares of MD stock to his undisclosed principal, alleged to have been a European Institutional Investor. The certificates in question were issued to Watson at his request, and upon his claim that he needed the certificates to show good faith and the ability to deliver the certificates if in fact a sale was made to said European Investor by MD. It should be noted that the sale was not made and the securities were in fact returned to defendant MD and have been cancelled.

(14) Mr. Dietz, further states in paragraph "11" of his affidavit that defendant Watson was indicted for stock fraud. The implication is that Watson was indicted for some activity relating to the undersigned and/or defendant MD. Here too Mr. Dietz attempts to mislead this Court by the insertion of what is clearly irrelevant, immaterial and inflamatory allegations, whether or not true, which would more than likely be inadmissable in Court. To the best knowledge of the undersigned, Mr. Watson's indictment was well subsequent to the transaction claimed of by the Commission and bears no relationship, directly or indirectly to any of the defendants named in this proceeding.

(15) Although Mr. Dietz's allegation that the certificates issued to Watson bore no legend is true, Mr. Dietz's Exhibit "I" clearly shows that the transfer agent was advised by the undersigned to place restrictions on its books, signifying that the shares were unregistered and that it was the opinion of management that there was little risk in omitting the legend

since the stock could not be transferred. Mr. Dietz also states

"Watson's attempt to dispose of these shares were unsuccessful". Since there is no indication in any of the Commission's moving papers as to what these attempts consisted of, it is impossible for me at this time to respond to said allegations except to state that I am unaware of any such attempts.

(16) With respect to the statements contained in paragraph "12" thry "23" of Mr. Dietz's affidavit I can only say that I have met the defendant David Langenaur on one or two occasions and have discussed with him, in a due diligence concept, the history and operations of defendant MD. I have no other connection with defendant Global nor was anything discussed between the undersigned and any other defendant named in this proceeding regarding the trading of MD stock. To the best of my recollection I have never met the defendant's Oschers, Schneider, Nadino, Mayflower, Cirello or Brennan.I did at one tim in late October, 1972, meet a gentleman who claimed to be from the defendant Fairfield but do not remember the context of the meeting but am confident that it was related to requests for due diligence information.

(17) In paragraph "19" of Mr. Dietz's affidavit he again attempts to confuse the issues and mislead this Court by referring to past administrative proceedings in which the defenda Mayflower was named as a respondent. It is apparent from the date of said proceeding that it bore no relationship to defendant MD or the undersigned.

(18) I deny any knowledge regarding the trading activity of any of the named defendant broker/dealers and in addition deny any activity with said broker/dealers in connection with such trading or the unsupported allegation by Dietz of a "fraudulent scheme". In effect, what the Commission is saying is "Levy is an officer and director of MD; the price of the stock went up; brokers and dealers traded the stock and therefore there was a scheme." This hardly constitutes proof.

(19) With regard to Mr. Dietz's statement in paragraph "23" of his affidavit, I can only state that I am aware that the defendant Hodge owns or controls approximately 100,000 shares (restricted) of defendant MD's stock.

(20) Mr. Dietz further alleges a scheme. I deny any existence of a scheme. In paragraph "24" of Mr. Dietz's affidavit again he states that the price of MD's shares rose from ¼ in August, 1972 to $6.00 in December, 1972. As previously mentioned, the prices quoted by Mr. Dietz are contradicted by his own exhibits. Mr. Dietz further alleges the sale of 43,125 shares of unregistered MD shares to seven persons. Annexed hereto as Exhibits "2" and "3" are letters from two of those investors namely Morris Hoffman, brother of Efraim Hoffman, one of the defendants herein and Maurice Pliner. These exhibits clearly show that these individuals are sophisticated, knowledgeable and of a class not requiring the protection of a registration statement. This point is more clearly defined in the accompanying Memorandum of Law. The other five purchasers are as equally sophisticated.

(21) If there was an artificial market for the stock

of MD as stated by Mr. Dietz in paragraph "25" of his affidavit I was totally unaware of it. However, the Commission has failed to give the basis of such alleged artificial market and it is therefore difficult for me to comment further on the allegation.

(22) In paragraph "27" of Mr. Dietz's affidavit he states that certain defendants engineered the infusion of some of Barrett's properties in return for 2.7 million shares of MD stock. The work "engineered" is a further attempt to imply some wrong-doing where none exists. The releases and letters which were prepared did not speak in inflated terms. Had Mr. Dietz read the letters he would have seen that his statements contained in paragraph "27" of his affidavit are false.

(23) In paragraphs "28", "29", "30" and "31" of Mr. Dietz's affidavit he attempts to convince this Court by implication, innuendo and absolute falsehood that the August 15th letter was misleading because it omitted to state material facts such as "made no mention of the Company's history or present activities". The August 15th letter from MD which is annexed hereto as Exhibit "4" and which is annexed to Mr. Dietz's affidavit as Exhibit "B" states as follows:

> " The results achieved by your Company during the last two and a half years have been very disappointing. For a multitute of reasons, all of the Company's business ventures, including those of its subsidiaries, and all of its acquisitions resulted in substantial losses. Your Company has been primarily inactive since last year when the president and all of the directors resigned, except myself. The financial situation during such time was that the Company had bank loans and accounts payable of approximately $50,000, with the only tangible asset against such payables being a small piece of land in Canada with a value of approximately $15,000.

> Under the above stated conditions, with our publicly traded stock trading at a low of 5/8 on June 14, 1972, I appointed Stephen D. Rosenfield Esq. and Alan I. Aberman, Esq. as directors of the Company to replace two directors who previously resigned. Messrs. Rosenfield and Aberman and myself, at a duly convened directors' meeting, approved a Private Placement of $50,000 in cash being conveyed to the Company from Ephraim Hoffman and Clyde H. Goff in exchange for 450,000 unregistered shares of the Company's authorized but unissued Common Stock. Simultaneously with such infusion of capital by Messrs. Hoffman and Goff to the Company, various major inside stockholders transferred to Messrs. Hoffman and Goff from their own stockholdings in the Company's unregistered Common Stock.
>
> On June 15, 1972, Messrs. Rosenfield and Aberman tendered their resignations as directors of the Company in favor of Messrs. Hoffman and Goff. On such date, Mr. Hoffman was appointed Acting President and Mr. Goff was appointed Acting Treasurer of the Company. (Emphasis added).

It can be clearly seen that the above referred to letter not only states the Company's history, (alleged by Mr. Dietz to have been omitted), but states it in such negative detail that one could only assume that the Company, prior to the infusion of Hoffman, Goff and Barrett's assets was an inactive public corporation (shell) in desperate financial shape. The majority of the remainder of Mr. Dietz's allegations are also directly contradicted by the August 15th release.

(24) As can be seen from the August 15 release, there is only one mention of the options about which Mr. Dietz makes statements of fraud. That mention comes in a footnote to the financial statements, and at that point in time constituted such a minimal portion of MD's total assets as to make any further mention immaterial. Mr. Dietz states that the August 15 letter

fails to mention that MD issued four million shares of its common stock. Yet the letter is clear in stating that 2.7 million shares would be issued to defendant Barrett (restricted) and 450,000 shares had been issued to defendants Hoffman and Goff (restricted). Mr. Dietz further implies, by its mere mention in paragraph "30" of his affidavit that the increased authorization by MD from two million shares to eight million shares was undisclosed and illegal. This too is not the case as such fact was clearly described in the August 15, 1972 letter, and was subject to shareholders approval on September 14, 1972.

(25) In paragraph "31"of Mr. Dietz's affidavit he states in effect that between the August 15, 1972 letter and the Octoner 13th and October 15th letter the stock of MD rose in price from ¼ to $5.00 per share and that the Commission's investigation indicated that the August 15th letter was the cause of the price rise. Nowhere in the Commission's moving papers is there one scintilla of evidence, indicating that alleged cause and effect. Moreover, Mr. Dietz's statement of the price rise is not only inaccurate but is directly contradicted by the exhibits to his own affidavit. The trading ledgers of the defendant Global shows a price of $2.50 per share starting with September 27, 1972 and rising in price to approximately $5.00 on October 13, 1972, the date of our alleged fraudulent press release. Yet between October 13 and October27th, two days after the October 25th alleged fraudulent press release the stock went down in price and eventually recovered to its $5.00 per share price. The price then increased to the $6.00 area in November, 1972. (See Exhibit "E" of Mr. Dietz's affidavit).

The trading records of defendant A.J. Carno (Mr. Dietz's Exhibit "F") are conspicously contradictory of Mr. Dietz's statement. A.J. Carno's records show that on August 14, 1972, one day prior to the August 15th letter, MD stock was $3.00 per share. On August 16th, according to Carno's records, 100 shares was purchased at $4.00 and 600 shares were sold at $5.00 and finally 300 shares were purchased at $3.00. This could hardly constitute the massive manipulation implied by Mr. Dietz. In point of fact, Carno's records reveal that on August 17th, two days after the MD letter, alleged to be fraudulent, MD stock was priced at 2½ - 3, which was unchanged from August 14, the day prior to the alleged fraudulent letter. In other words, the price did not rise from ½, but rose from $3.00 per share. This act is totally disregarded by Mr. Dietz and in fact replaced by a false statement regarding the market price which could only have been made by Mr. Dietz as an attempt to bolster his unsupported and unfounded allegations.

(26) In paragraph "31" of Mr. Dietz's affidavit he again shows his lack of proper investigation and his desire not to inform this Court of all of the facts. He states that the Agust 15 letter was the "only public information disseminated by MD concerning its business operations until the October letters. It should be noted that on March 2, 1970 defendant MD filed with the Commission a notification Form 1A, and offering circular seeking an exemption from registration in what is commonly referred to as a Regulation "A" offering. Although it is true that an offering circular is not a registration statement, it is generally considered to be the same type of disclosure document. The offering was withdrawn on March 3, 1970 due to adverse market conditions.

However, the documents relating to the proposed offering are public information and are available at the Commission's New York Regional Office, the same office which employs Mr. Dietz. The offering circular, a copy of which is annexed hereto as Exhibit "5", clearly sets forth the history of MD and its background.

(27) Mr. Dietz's affidavit in paragraphs "32", "33", "34", "35", "36" and "37" refers to the October releases of MD. Here too Mr. Dietz apparently has not read the releases as he claims they do not set forth the negative aspects and potential problems in connection with the proposed land development. A reading of the October 13, 1972 press release, annexed hereto as Exhibit "6" (Also, Mr. Dietz's Exhibit "B") states: " the option to buy is subject to the local communities passage of an ordinance that would permit the construction of the retirement community...as well as the State of New Jersey's permission to erect a sewerage treatment plant." The October 25th letter, a portion of which is set forth in paragraph "34 of Mr. Dietz's affidavit clearly states: "However, this is contingent upon the successful achievement of zoning changes permitting such construction." It is inconceivable to me how Mr. Dietz claims that these releases do not indicate the regulatory approval needed.

(28) There is no denying letters and releases were sent to shareholders as well as brokers and dealers. However, since they clearly set forth the negative aspects claimed by Mr. Dietz to have been omitted, it is impossible to determine what the undersigned could have done to compel a broker or dealer to say

only those things referred to in the letter. The reference by Mr. Dietz to the trading activity bears no mention of my name nor does it indicate either direct or indirect participation by the undersigned. In paragraph "42" of Mr. Dietz's affidavit he claims that the Company, according to a $6.00 price was valued at 24 Million Dollars. However, it should be noted that there are only approximately 110,000 shares of MD stock which are freely tradable by the public. This would indicate a company valuation of not 24 Million but rather $660,000.

(29) Mr. Dietz implies in paragraph "47" of his affidavit that the Commission reacted to all of the alleged facts by suspending the stock of MD. Mr. Dietz has failed to state that the defendant MD requested the suspension. With regard to Mr. Dietz's claim of defendant Watson's placement of stock, I can only say that I am unaware of any sale or offer to sell any of the shares temporarily held by defendant Watson. My impression is further bolsted by the fact that the shares in question were cancelled by defendant MD and returned to defendant MD by defendant Watson. There is no evidence given by Mr. Dietz or the Commission to substantiate Mr. Dietz's claim that Watson offered the stock throughout the United States.

(30) As with many of Mr. Dietz's other claims his statement in paragraph "50" of his affidavit regarding 100 separate sales of unregistered shares of MD is unsupported by

the facts. Between February 24, 1969 and the present there have been approximately twelve different sales of restricted shares to approximately fourty-six different individuals. This includes the original purchase by the five founders of MD, including the undersigned, which took place on February 24, 1969. In addition, so that the record may be perfectly clear, there were thirteen separate issuances over the same period of time to approximately fourty-four different people in exchange for services rendered to the company, including financial services, consulting services and finders fees. In addition, there were eight separate issuances over the same period of time to eight different entities as a result of various acquisitions. All of the aforementioned issuances of stock included issuances of legended restricted stock, stops placed at the transfer agent and investmer letters being signed by the persons acquiring the securities. Al of the referred to recipients of MD stock had full access to the Company records and were so closely related to the Company or its officials that they had an intimate knowledge of the facts and circumstances surrounding the Company.

(31) Paragraph "51" of Mr. Dietz's affidavit is again directly contradicted by the information contained in the various news letters and releasè.

(32) Paragraph "52" of Mr. Dietz's affidavit states: "Barrett and others have also testifies that Levy helped prepare and review the fraudulent Company letters...". Although I have

not seen the testimony, it is my understanding there has been no testimony admitting the letters or release to be fraudulent, but rather stating that the undersigned reviewed the Company letters.

(33) The relief requested by the Commission in its motion and in particular paragraph "57" of Mr. Dietz's affidavit is of the broadest of scope. In fact so broad as to be unconscionable. The Commission seeks an injunction based upon the unsupported allegations and totally contradicted statements, not only in connection with the securities of MD, but any other securities.

(34) As an attorney, I would be subject to irrepairable harm if an injunction was issued against me. This is particularly true is an injunction were to be issued upon the unsupported allegations of the Commission's staff attorney. It should be noted that Mr. Dietz's affidavit is not made upon information and belief but rather upon what appears to be claimed as first hand knowledge. It can clearly be seen that Mr. Dietz's affidavit is unsupported by the facts.

(35) In responding to the Commission's motion I have only answered allegations referring to the more salient points and have not gone into a discussion as to why I have not conducted a scheme when it is impossible for me to determine what I did in connection with said alleged scheme.

(36) It should also be noted that MD stock has not been publicly traded since the date it was suspended (December 18, 1972) even though the suspension was lifted in March, 1973.

Therefore, even assuming that Mr. Dietz's unsupported allegations were not denied and went unanswered, an injunction should not lie because the alleged violations have little liklihood of occurring. This is particularly true since I am an attorney and would not condone any issuance of stock by defendant MD without adherence to the registration provisions of the Securities Act or the availability of the exemption thereto.

Sworn to before me
this 10th Day of October 73

JOEL HELD
Notary Public, State of New York
No. 31-1745251
Qualified in New York County
Commission Expires March 30, 1975

William N. Levy

WILLIAM N. LEVY

EXHIBITS ANNEXED TO FOREGOING AFFIDAVIT:

EXHIBIT 1 - COPY OF SEC NEWS DIGEST

SECURITIES AND EXCHANGE COMMISSION
NEWS DIGEST
A Daily Summary of S.E.C. Activities
Washington, D.C. 20549
(Prepared by the SEC Office of Public Information)
(Issue No. 73-236)
FOR RELEASE December 11, 1973

COMMISSION ANNOUNCEMENTS

SEC ORDER CITES WALL ST. CORP. OF AMERICA. The SEC has ordered public administrative proceedings under the Securities Exchange Act of 1934 involving Wall Street Corporation of America, Inc. (Registrant), a registered broker-dealer of Miami, Fla. Also named as respondent is Marie A. Peterson (Peterson), president and substantial stockholder, and Thomas V. McCaul (McCaul), vice-president and stockholder. The proceedings are based upon allegations of the Commission's staff that Registrant, aided and abetted by Peterson and McCaul, violated provisions of the Securities Exchange Act of 1934 and the rules thereunder by failing to make and keep current required books and records, effecting transactions in securities when Registrant was not in compliance with the net capital requirements, failing to file annual financial reports, and filing false and misleading current financial and operational reports.

A hearing will be scheduled by further order to take evidence on the staff allegations and to afford the respondents an opportunity to offer any defenses thereto, for the purpose of determining whether the allegations are true and, if so, whether any action of a remedial nature should be ordered by the Commission.

TRADING SUSPENDED IN MANAGEMENT DYNAMICS. The SEC has ordered the temporary suspension of over-the-counter trading in the securities of Management Dynamics, Inc., of Philadelphia, Pa. effective for a 10-day period from December 8 through 17, 1972. The suspension was ordered because the company has informed the Commission that 960,000 unregistered shares of the company's common stock can not be presently accounted for. This stock was issued during October and November 1972 in 5,000 share multiples. These certificates were issued in the name of Peter R. Watson and carry no restrictive legend. The shares in question bear the following certificate numbers and were issued in the following denominations

Certificate Nos.	Denomination
3488 - 3599	5000 each certificate
3670 - 3749	5000 each certificate

The company has informed the Commission that these shares have been cancelled and are null and void. Furthermore, the company has instructed its transfer agent not to effect the transfer of any of these shares. The company has informed the Commission that it is attempting to recover the certificates.

In addition, the company reports that of the 4,055,830 other common shares outstanding, 3,942,000 are unregistered. The Commission noted that the price of Management Dynamics common shares rose from approximately $.25 in August 1972 to a bid of 6 on December 7, 1972 and noted failure to disseminate current adequate information concerning the financial condition and history of the company. The certificates mentioned in this release may be presented for sale or as collateral for loans. (Rel.34-9904)

FOREIGN RESTRICTED LIST. Warden Walker Worldwide Investment Company (Warden Walker), Trafalgar Square, London, England, has been engaging in an extensive campaign by mail from England to investors in the United States to induce them to invest in Scotch whiskey warehouse receipts. The entire program of offering and arranging for the investment, supervising it, storing the whiskey, advising the investor when to sell, and handling the transaction of sale by purchasing the certificate of ownership from the investor, is such that Warden Walker is engaged in making a public offering of an investment contract that is a security. See Securities Act Releases No. 5018 and 5245.

Since this investment contract is a security that is being publicly offered in the United States when no registration statement covering it has been filed under the Securities Act of 1933, and the offers and sales are in violation of the provisions of Section 5 of that Act, the Commission has placed Warden Walker Worldwide Investment Company on the Foreign Restricted List.

WAGNER NAMED ADMINISTRATIVE LAW JUDGE. SEC Chairman William J. Casey announced the appointment of Edward B. Wagner to the position of Administrative Law Judge of the Commission. Mr. Wagner was Assistant Director, Division of Corporation Finance. Mr. Wagner joined the Commission staff in 1962 as a Special Counsel assigned to the Division of Trading and Markets and served in that Division until 1964 when he was reassigned to the Office of General Counsel. He became Assistant General Counsel in December 1967. In June 1968 he was named Assistant Director, Division of Corporate Regulation. Recently Mr. Wagner has presided over the Commission's "Hot Issues" hearings. He received his B.A. degree from DePauw University in 1943 and his J.D. degree from Northwestern Law School in 1953. He is admitted to the Illinois Bar. Before joining the Commission's staff, he served as Assistant Dean and Assistant Professor of Law at Northwestern.

OVER

Exhibit 1 - Copy of SEC News Digest

TRADING SUSPENSION OF MANAGEMENT DYNAMICS TERMINATED. The SEC today announced that at midnight March 21, 1973, the suspension of trading in the securities of Management Dynamics, Inc. will be terminated. This suspension was requested by the company in order to permit dissemination of information concerning the corporation. On March 13, 1973, the company distributed a letter to shareholders and others which provides current information about the company, and its history. (Rel. 34-10047)

DECISIONS IN ADMINISTRATIVE PROCEEDING

LOUIS KORNMAN SANCTIONED. The SEC has suspended Louis Kornman, Milwaukee, Wis., from association with a broker or dealer for 90 days beginning March 26; thereafter he may not, without the prior approval of the Commission, have any authority or responsibility with respect to the back office or operations department of a broker-dealer or the maintenance of records relating to its capital.

The sanction was based on findings that during the period February-September 1972, respondent, president of a broker-dealer, aided and abetted violations of reporting and record-keeping requirements and failed to exercise reasonable supervision over others with a view to preventing such violations. The Commission's action was taken pursuant to an offer of settlement in which respondent, without admitting or denying the charges, consented to the findings and sanction. (Rel. 34-10035)

HOLDING COMPANY ACT RELEASES

NEW ENGLAND ELECTRIC SYSTEM. The SEC has ordered a hearing to commence April 3 on a plan of divestiture filed by New England Electric System (NEES), a Westborough, Mass. registered holding company, and Massachusetts Gas Company, its subsidiary holding company, proposing to sell three NEES subsidiary gas utility companies and a subsidiary Massachusetts business corporation to Eastern Gas and Fuel Associates, an exempt holding company. Petitions for intervention in opposition to the proposed sale were filed by Congressman Michael J. Harrington, Sixth District of Massachusetts, the Association of Massachusetts Consumers and Stanley U. Robinson, III, a prospective bidder representative.(Rel. 35-17908)

SECURITIES ACT REGISTRATIONS FILED

CALIFORNIA TAX-EXEMPT BOND FUND, Series 2, 235 Montgomery St., San Francisco, Calif. 94104 - $6 million of units. The Fund was created pursuant to a trust indenture and agreement between California Tax-Exempt Bond Fund Incorporated, the sponsor, and Title Insurance and Trust Company, the trustee. It will consist of interest-bearing municipal bonds, the interest on which is, in the opinion of recognized bond counsel, exempt from all Federal and California income tax. The bonds are obligations of the State of California, counties, municipalities, authorities or political subdivisions thereof or of certain United States territories or possessions. (File 2-47266 - Mar 14)

PUROLATOR, INC., 970 New Brunswick Ave., Rahway, N. J. 07065 - 31,562 shares of common stock, which are to be offered for sale from time to time by certain shareholders at prices current at the time of sale (* $58.625 per share maximum). (File 2-47267 - Mar 14)

INSURANCE CONSULTANTS, INC. (ICI), 1010 Collingwood Dr., St. Louis, Mo. 63132 - 1,000,000 shares of common stock. ICI was organized by Weil-McLain Company, Inc. in 1973 to acquire the insurance agency business of Weil-McLain. Weil-McLain proposes to offer to its common stockholders to exchange ICI shares for Weil-McLain shares, at a rate to be specified later. Lehman Brothers, Inc., One William St., has agreed to head a group of dealers who will solicit acceptances of the exchange offer. Weil-McLain manufactures and/or sells heating and air conditioning systems, fluid systems, housing and architectural lighting. (File 2-47273 - Mar 15)

GOLDEN CYCLE GOLD PROGRAM, LTD., P. O. Box 5, Victor, Colo. 80860 - $6,700,000 of partnership interests, to be offered for sale in minimum amounts of $5,000 by Bosworth, Sullivan & Co., Inc., 660 - 17th St., Denver, Colo., and selected NASD members. The Partnership was organized to explore for gold on mining properties in Colorado. Golden Cycle Gold Corporation is the general partner. (File 2-47275 - Mar 15)

STOCK PLANS FILED. The following have filed Form S-8 registration statements with the SEC seeking registration of securities to be offered pursuant to employee stock and related plans:

Apeco Corporation, Evanston, Ill. (File 2-47256) - 8,616 shares
Syntex Corporation, Republic of Panama (File 2-47260) - 383,647 shares
Larwin Mortgage Investors, Beverly Hills, Calif. (File 2-47265) - 100,000 shares
Brown Group, Inc., St. Louis, Mo. (File 2-47268) - 200,000 shares
Caterpillar Tractor Co., Peoria, Ill. (File 2-47269) - 16,000 shares and (File 2-47270) - 400,000 shares
American Building Maintenance Industries, San Francisco, Calif. (File 2-47271) - 50,000 shares
Arrow Automotive Industries, Inc., Hudson, Mass. (File 2-47272) - 105,000 shares
Planned Marketing Associates, Inc., Dallas, Tex. (File 2-47276) - 159,911 shares

EXHIBIT 2 - LETTER FROM MORRIS HOFFMAN

August 2, 1973

To Whom It May Concern:

I have, over a number of years, taken a position in many stocks ranging from blue chips to those of a highly speculative nature, including new issues and "over the counters". I also maintain accounts with several brokerage houses in Philadelphia and subscribe to many business advisory services.

I am a lawyer and have been admitted to practice in Pennsylvania. I am familiar with financial reports. I purchased the stock of Management Dynamics, Inc. because my brother, Ephraim Hoffman, had an investment position with the company.

I am aware of the significance of "investment stock" and understood when I purchased the shares of Management Dynamics, Inc. that I would have to hold the stock for an indefinite period of time. An investment letter was signed at the time of the purchase. Also, I was given no assurance as to when the stock might be registered.

This investment represented a minimal part of my portfolio.

Sincerely,

Morris Hoffman

Morris Hoffman

EXHIBIT 3 - LETTER FROM MAURICE R. PLINER

August 2, 1973

To Whom It May Concern:

I have, over a number of years, taken a position in many stocks, ranging from blue chips to those of a highly speculative nature, including new issues and "over the counters".

I have also maintained accounts with several brokerage houses in Philadelphia, and have subscribed to business advisory services.

I am currently Director of Security for one of the largest newspaper publishing companies in Philadelphia. Formerly, I was with the Philadelphia Police Department, and rose to the second highest rank in the department, before going on pension in 1959.

I was familiar with the financial reports of Management Dynamics, Inc., because my friend of many years standing, Ephraim Hoffman, had been in an investment position with the company.

I am aware of the significance of "investment stocks", and understand when I purchased the shares of Management Dynamics, Inc., that I would have to hold the stock for an indefinite period of time.

An investment letter was filed at the time of purchase. Also, I was given no assurance as to when the stock might be registered. This investment was but one of many I hold in my portfolio.

I have absolutely no reservations about the integrity and good intentions of Ephraim Hoffman, and would, today or tomorrow, not hesitate to involve myself in any enterprise, financial dealing or any other matter that he was engaged in or a party to.

Sincerely,

Maurice R. Pliner

Maurice R. Pliner

MRP/atc

EXHIBIT 4 - LETTER FROM MD TO STOCKHOLDERS DATED AUGUST 15, 1972

MANAGEMENT DYNAMICS INCORPORATED 1500 WALNUT ST., PHILADELPHIA, PA. 19102

(215) 569-4226

August 15, 1972

To Our Stockholders:

The results achieved by your Company during the last two and a half years have been very disappointing. For a multitude of reasons, all of the Company's business ventures, including those of its subsidiaries, and all of its acquisitions resulted in substantial losses. Your Company has been primarily inactive since last year when the president and all of the directors, except myself, resigned. The financial situation during such time was that the Company had bank loans and accounts payable of approximately $50,000, with the only tangible asset against such payables being a small piece of land in Canada with a value of approximately $15,000.

Under the above-stated conditions, with our publicly traded stock trading at a low of 5/8, on June 14, 1972, I appointed Stephen D. Rosenfield, Esq., and Alan I. Aberman, Esq., as directors of the Company to replace two directors who previously resigned. Messrs. Rosenfield and Aberman and myself, at a duly convened directors' meeting, approved a Private Placement of $50,000 in cash being conveyed to the Company from Ephraim Hoffman and Clyde H. Goff in exchange for 450,000 unregistered shares of the Company's authorized, but unissued Common Stock. Simultaneously, with such infusion of capital by Messrs. Hoffman and Goff to the Company, various major inside stockholders transferred to Messrs. Hoffman and Goff from their own stockholdings in the Company, an additional 140,000 shares of the Company's unregistered Common Stock.

On June 15, 1972, Messrs. Rosenfield and Aberman tendered their resignations as directors of the Company in favor of Messrs. Hoffman and Goff. On such date, Mr. Hoffman was appointed acting president and Mr. Goff was appointed acting treasurer of the Company.

We are now happy to report that the status of your Company has substantially improved to the point where our present net cash position is approximately equal to our liabilities.

On July 10, 1972, after a long search for capable management and solid assets, at a duly convened Board of Directors' Meeting, the directors unanimously voted to acquire specified assets owned by Edwin J. Barrett (which assets were valued at $135,953, see enclosed "Financial Statements") for 2,700,000 shares of the Company's unregistered Common Stock subject to (a) stockholders' ratification of such stock issuance, and (b) stockholders' approval to raise the Company's authorized $.01 par value Common Stock from 2,000,000 to 8,000,000 shares.

Although there can be no assurance that the acquisition of Mr. Barrett's assets will lead to the development of a highly successful company, it is the Board's opinion that not only are Mr. Barrett's assets of solid value to the Company; but, in addition, Mr. Barrett has demonstrated the requisite leadership capability and good business judgment to lead the Company to its anticipated potential of strong and solid growth in both revenues and earnings. The Board urges you, as a stockholder of the Company, to attend the Company's Annual and Special Stockholders' Meeting (a copy to which Notice is enclosed), if it is impossible for you to attend such Meeting, kindly immediately fill out the enclosed Proxy and immediately mail such Proxy to the Company.

EXHIBIT 5 - OFFERING CIRCULAR

OFFERING CIRCULAR

100,000 Units

MANAGEMENT DYNAMICS, INC.

The representative bid and asked prices of the Common Stock in the over-the-counter market on 1970 were $ and $, respectively.

Each unit consisting of 1 share of Common Stock ($.01 par value) and 1 Warrant to purchase one share of Common Stock at a price of $ for a period of one year commencing one year after the date of this Offering Circular.

THESE SECURITIES ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION. THE COMMISSION DOES NOT PASS UPON THE MERITS OF ANY SECURITIES NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING CIRCULAR OR OTHER SELLING LITERATURE.

Although sold as Units, the Warrants and the Common Stock will trade separately. Prior to this offering there has been a public market for the Common Stock (see "Price Range of Common Stock"). Prior to this offering there has been no public market for the Warrants; and there can be no assurance that such a market will develop. The price at which the Units are being offered to the public hereby was determined by negotiation between the Company and the Underwriter in relation to the over-the-counter price for the Company's stock on the date of this offering.

THESE SECURITIES INVOLVE A HIGH DEGREE OF RISK

	Price to Public	Underwriting Discounts Commissions and Expenses (1)(2)	Proceeds to Company
Per Unit	$	$	$
Total	$	$	$

(1) The underwriting contract provides that the Company has engaged the Underwriter on a "best efforts" basis for a period of ninety days from the date hereof (which period may be extended by mutual consent for not more than thirty additional days) to sell 100,000 Units to the public. Accordingly, less than all of the Units offered hereby may be sold and there can be no assurance that any of the Units will be sold. If all the Units are sold, the Underwriter will receive the commission stated above and a non-accountable expense allowance described below. If less than all the Units are sold, the aggregate commissions and expense allowance payable to the Underwriter will be proportionately reduced.

(2) Includes up to $ ($ per Unit) payable to the Underwriter as a non-accountable expense allowance in proportion to the number of Units sold, but does not include additional significant underwriting compensation, through the sale to the Underwriter and its designees, at $.01 each, of five-year warrants to purchase, in proportion to the number of Units sold, up to shares of Common Stock at $ per share, and other concessions such as indemnification and preferential rights to future financings. For specific information concerning above, see "Underwriting".

The shares offered by the Underwriter are so offered when and if accepted and received by the Underwriter, subject to prior sale, withdrawal, cancellation or modification, without notice and the approval of Messr. Morton Schimmel, counsel for the Underwriter; and Messrs. Levy and Lacktman, counsel for the Company.

E. L. AARON & CO., INCORPORATED

15 William Street

New York, New York 10005

The date of this Offering Circular is , 1970

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IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SECURITIES OF THE COMPANY AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. IF STABILIZATION IS ENGAGED IN, THE UNDERWRITER MAY INITIALLY BE A DOMINATING INFLUENCE AND THEREFORE A FACTOR OF DECREASING IMPORTANCE IN THE MARKET. UNDER SUCH CIRCUMSTANCES, THE MARKET PRICE OF THE SECURITIES MAY NOT BE A PRICE DETERMINED SOLELY BY SUPPLY AND DEMAND, BUT MAY BE A PRICE IN EXCESS THEREOF, AND AT THE EXPIRATION OF ANY STABILIZATION PERIOD, SUCH MARKET MAY CEASE TO HAVE THE SUPPORT, IF ANY, THERETOFORE FURNISHED BY THE UNDERWRITER. THERE IS A PRESENT MARKET FOR THE COMPANY'S SECURITIES.

THE COMPANY

Management Dynamics, Inc. (the "Company") was incorporated under the laws of the State of New Jersey on January 23, 1969. The Company initially was established to provide management and financial consulting services to commercial, industrial and institutional users. On June 25, 1969, the Company merged with Northeastern Amusement Rides & Services Corp., an inactive public company with no assets and approximately 1,400 shareholders (see "Certain Material Transactions"). Management Dynamics, Inc. remained the surviving corporation after such merger. The Company has formed the following three divisions: Printing and Advertising Services, Leisure Time, and Food Distribution (see "Business"). The Company also has commenced an acquisition program.

The principal offices of the Company are located at 130 North Broadway, Camden, New Jersey, 08102.

INTRODUCTORY STATEMENT

Risk Factors

The securities offered hereby are speculative in nature. In analyzing this offering, prospective investors should carefully consider the following matters:

1. There is no firm commitment by the Underwriter to purchase any of the units offered hereby; and accordingly, there is no assurance that all of said units will be sold. To the extent that a significant amount of such units remains unsold, the Company's future operations may be materially impaired.

2. No provision has been made for the return of any part of the proceeds of the sale of the units offered hereby in the event that any part of the offering remains unsold.

3. The Company, although public, is essentially a new venture and has a limited operating history. There is no assurance that the Company can operate profitably.

4. Even though there is a present market for the Company's Common Stock, no assurance can be made that even if the offering is successful a ready market for the warrants offered hereunder will develop. The offering price of the units has been determined by the Underwriter and the Company according to the existing over-the-counter quotations for the Company's Common Stock.

5. The Company is involved in litigation resulting from its merger with Northeastern Amusement Rides & Services Corp. (see "The Company" and "Litigation"). There is no assurance that additional litigation due to the activities of Northeastern Amusement Rides & Services Corp. will not be brought against the Company. As of the present date, the Company's management has no knowledge of such additional litigation.

6. If the proceeds of this offering are not sufficient enough for the Company to exercise its option to purchase the business of Morris Elkis & Son, Inc. for its Food Distribution Division, the Company will forfeit all option payments (see "Use of Proceeds" and "Business-Food Distribution Division").

7. Until sufficient revenues are generated from the Company's operation, part of the proceeds of the offering may be required to pay the salaries of the Company's management and employees.

8. The Company's future operations may require additional financing and there can be no assurance that this can be obtained upon terms satisfactory to the Company.

9. In view of the Company's anticipated financial needs, it is not expected that any dividends will be paid in the foreseeable future.

10. As long as the warrants included in the units and the warrants issued to the Underwriter remain outstanding: (1) the holders thereof are given, at no cost, the opportunity to profit from a rise in the market price of the Company's Common Stock, if any, with a resulting dilution in the interest of the then stockholders, and (2) the Company may be deprived of more favorable opportunities to procure additional equity capital, if it should be needed, for the purposes of its business (see "Underwriting").

11. While the warrants included in the units are qualified pursuant to Regulation A, the underlying shares of Common Stock of the Company are not qualified or registered pursuant to the Securities Act of 1933, as amended. In connection with any distribution of the shares of Common Stock issuable upon the exercise of any of the above mentioned warrants, the Company has undertaken to prepare and file at its sole cost and expense a new Regulation A or to file a Registration Statement under the Securities Act of 1933, as amended, in order to permit the purchasers of said warrants to exercise said warrants at any time during the period said warrants are exercisable.

DILUTION

If all of the shares of common stock included in the units offered hereby are sold, the public shareholders will own % of the shares to be issued and outstanding for which they will have paid $300,000 ($ per unit), and the present shareholders will own % of the shares to be issued and outstanding for which they paid $ ($ per share). Based upon the net tangible pro-forma book value of the presently outstanding Common Stock of $ ($ per share) as of November 30, 1969, the net tangible book value upon completion of the offering (after deduction of the Underwriting commissions and other expenses of the offering) would increase to $ per share. The immediate increase in net tangible book value of the shares of the present shareholders from $ to $ will be attributable to the cash payments made by purchasers of the 100,000 units offered hereby, and such purchasers will immediately sustain a dilution of $ from the $ per unit purchase price.

Assuming the sale of the 100,000 units offered hereby, the Company will issue to the Underwriter, at a cost of $.01 per warrant, 10,000 warrants to purchase, for a three (3) year, eleven (11) month period, commencing 13 months from the date of issuance, an aggregate of 10,000 common shares at an exercise price of $ per share.

USE OF PROCEEDS

If all of the units hereunder are sold, the net proceeds to the Company will be approximately $230,000, after deduction of the Underwriter's commissions and all other expenses incurred in connection with this offering. The Company proposes to apply such net proceeds to the following purposes:

1. Approximately $87,000 will be used to exercise the Company's option to acquire Morris Elkis & Sons, Inc.; in addition approximately $50,000 additional will be used to acquire the inventory of Morris Elkis & Sons, Inc. existing on the date of the exercise of such option (see "Business-Food Distribution Division").

2. Approximately $5,000 in addition to unregistered shares of the Company will be used to acquire all the outstanding stock of Herb's Seafood Company (see "Business-Food Distribution Division"). Such acquisition is contingent on the successful exercise by the Company of its option with Morris Elkis & Sons, Inc.

3. Approximately $30,000 will be used to purchase printing and photographic equipment for H. K. Visuals, Ltd. (see "Business-Printing and Advertising Services Division").

4. The balance of approximately $58,000 will be used for general working capital purposes of the Company, including salaries of the Company's officers.

If all of the warrants being offered in conjunction with the units hereby were to be exercised, the Company would receive an additional $. The Company cannot determine when and to what extent the warrants offered may be exercised. The proceeds, if any, from the exercise of warrants, will be used for general corporate purposes.

Since there is no firm commitment for the purchase of the units hereby, no representation is made that the entire proceeds will be received by the Company. In the event that less than the entire offering is sold, the Company will make proportionate reductions of the amounts allocated to the purposes set forth in items 3. and 4. In the event that the net proceedings to the Company from the offering is less than $150,000, the Company will not exercise its option with Morris Elkis & Sons, Inc. and no proceeds will be used for

items 1. and 2. There is no arrangement between the Company and the Underwriter providing for return of any proceeds resulting from sale of the units offered hereby in the event that the entire offering is not sold. To the extent that funds are not currently used for the aforementioned purposes, they may be temporarily invested in certificates of deposit, short term government obligations, or prime paper.

CAPITALIZATION

The Capitalization of the Company as of the date hereof and as adjusted to reflect the sale of the units offered hereby is set forth below:

Title of Class	Amount Authorized	Amount Outstanding	Amount to be Outstanding if all Units offered hereby are sold
Common Stock ($.01 Par Value)	2,000,000 shs.	606,750 shs.(3)	706,750 (1) (3)
Common Stock Purchase Warrants exercisable for a period of one year commencing after one year from the date of this Offering Circular	100,000 wts.	None	100,000(2)

(1) Does not include a maximum of 100,000 shares reserved for issuance upon exercise of warrants included in the units offered hereby, and a maximum of 10,000 shares reserved for issuance upon exercise of warrants to be issued to the Underwriter pursuant to the terms of the Underwriting Agreement.

(2) Does not include a maximum of 10,000 warrants to be issued to the Underwriter pursuant to the terms of the Underwriting Agreement.

(3) Does not include a maximum of 70,000 shares reserved for issuance to former H. K. Visuals stockholders upon obtaining certain earning incentive levels (see Business-Printing and Advertising Services Division").

PRICE RANGE OF COMMON STOCK

The Common Stock of the Company is traded in the over-the-counter market. The following table sets forth the reported high and low bid prices for the Common Stock for the periods indicated as reported by the National Quotation Bureau, Inc. These quotations represent prices between dealers, do not include retail mark-up, mark-down, or commissions, and may not represent actual transactions.

1969 Period	High Bid	Low Bid
1st available to September 30, 1969	3½	½
Fourth Quarter	5½	3½
1970 Period		
First Quarter through March 2, 1970	5½	1¾

On , 1970 the high and low bid prices in the over-the-counter market were $ and $, respectively.

BUSINESS

General

The Company which has only recently commenced active operations, has formed the following three divisions: Printing and Advertising Services, Leisure Time, and Food Distribution. As of the present date, both the Printing and Advertising Services and the Leisure Time Divisions have commenced operations. The Food Distribution Division will become operable if the Company is able to exercise its options in connection therewith (see "Food Distribution Division"). In addition the Company plans to continue to pursue its acquisition program.

Printing and Advertising Services Division

On December 30, 1969 the Company in exchange for 70,000 shares of its unregistered Common Stock acquired all of the corporate stock of H. K. Visuals, Ltd., 350 Hudson Street, New York, New York.

During the years 1970, 1971 and 1972, the Company has agreed to transfer up to a maximum of 70,000 additional shares of its Common Stock to the former shareholders of H. K. Visuals, Ltd. based on the attainment by the Company's newly created H. K. Visuals, Ltd. division of a certain net profit per year based on a formula contained in the December 30, 1969 stock-for-stock agreement between the Company and H. K. Visuals, Ltd.

H. K. Visuals, Ltd., is a firm engaged in the area of Sales Promotion, Printing, and Graphic Design. It offers, in addition to the above general areas, a highly specialized graphic distillation of T.V. film commercials for utilization and promotion by advertising agencies and their clients. H. K. Visuals, Ltd. which has no production facilities of its own, sub-contract its production on a bid basis. This Division of the Company which is currently servicing several major national accounts and advertising agencies, has embarked on an expansion program in both personnel and sales. It experiences severe competition from a wide range of graphic arts firms, most of which have greater financial resources than itself.

H. K. Visuals, Ltd. which depends chiefly for its revenue on the marketing ability of its President, Eugene Block, is in the process of acquiring a $100,000 insurance policy on the life of Mr. Block. H. K. Visuals, Ltd. has signed an employment contract with Mr. Block for the three year period commencing January 1, 1970 and ending December 31, 1972, by which Mr. Block is to receive compensation of not less than five hundred dollars ($500) per week. In addition, Mr. Block is to receive an incentive bonus of 25% of the after tax earnings of H. K. Visuals, Ltd. in excess of $35,000 per year for each year of such employment contract. H. K. Visuals, Ltd. has signed a three year employment contract with Herbert Kassoff commencing January 1, 1970 under which Mr. Kassoff is to receive not less than three hundred dollars ($300) per week; in addition, Mr. Kassoff is to be granted options for not less than 6,000 shares of Management Dynamics, Inc.'s unregistered Common Stock over such three year period.

Leisure Time Division

On October 24, 1969, the Company acquired the physical assets and goodwill of the Willingboro Spa, Inc. of Willingboro, New Jersey for four thousand (4,000) shares of the Company's unregistered Common Stock and $10,000 in cash, and also acquired the Vineland Health Club, Inc. of Vineland, New Jersey, for fifty-five hundred (5,500) shares of the Company's unregistered Common Stock and $2,888 in eight equal notes of $361 each, the first payment on such notes to be paid on December 15, 1969. Leisure Time Enterprises, Inc., was incorporated in the State of Delaware on October 24, 1969 and was qualified to do business in the State of New Jersey on November 5, 1969. On October 25, 1969, in return for the Company's transfer of the physical assets and good will of the Willingboro Spa, Inc., the transfer of 100% of the Common Stock of Vineland Health Club, Inc., and the $2,888 note obligation to Leisure Time Enterprises, Inc., the Company received 551,667 shares of the unregistered Common Stock of Leisure Time Enterprises, Inc., which represented approximately 68% of the outstanding shares of Leisure Time Enterprises, Inc. Shortly after its inception, Leisure Time Enterprises, Inc. borrowed $18,075 from the Company, at no interest, to be used as working capital; as of January 3, 1970, $8,000 of such loan had been paid.

Leisure Time Enterprises, Inc. has sold for services rendered 105,000 shares of its Common Stock at $.01 per share to officers, employees, and various parties connected with Leisure Time Enterprises, Inc., none of which are officers and/directors of Management Dynamics, Inc. Leisure Time Enterprises, Inc. has also sold 148,334 shares of its Common Stock at $.30 a share to 22 private investors.

Both the Willingboro and Vineland Spas offer to the public, both men and women, facilities for maintaining physical fitness, for gaining and losing weight and for body contour. Both clubs have substantially the same basic equipment and facilities; each spa contains an exercise room or gymnasium, lockers, showers, whirlpools, bath, ultra-violet areas, sauna and dry-heating room and steam room.

Both spas as of the present date have over 800 members. It is the intention of Leisure Time Enterprises, Inc. to open one-two additional spas in 1970.

As of December 31, 1969, Leisure Time Enterprises, Inc. employed 18 persons, (including 10 part-time employees) in the following categories: Executive-4, Club Managers-2, trainers-2 (part-time-2),

instructresses-8 (part-time-8), and clerical and administrative-2. Trainers and instructresses have not received any professional training other than the training provided by the Company.

The Vineland Spa which consists of 4,000 square feet is located in the Sears & Roebuck Shopping Center, Route 47, Vineland, New Jersey. The Company pays a monthly rental of $700 on a lease which runs until May 30, 1978.

The Willingboro Spa which consists of 3,000 square feet is located across from the Levittown Shopping Center, Willingboro, New Jersey. The Company pays a monthly rental of $500 on a lease which runs until December 31, 1973.

In the two areas where Leisure Time Enterprises, Inc.'s spas are located, Leisure Time Enterprises, Inc. competes with a number of other health clubs, weight reducing studios, YMCA's, regional downtown and country clubs, and other organizations all of which provide programs and facilities for maintaining physical fitness. Most of these other facilities are larger and have far greater financial resources than the Company.

On February 27, 1970, Leisure Time Enterprises, Inc. acquired a 60% interest in Leisure Time Pools, Inc., a recently formed Delaware corporation which was formed for the purpose of selling retail residential swimming pools. Leisure Time Pools, Inc., has just recently commenced selling activities in the Delaware Valley Area and there is no assurance that the Company will be able to generate any significant profit in the near future.

Food Distribution Division

The Company intends to initiate operations in the wholesale distribution of fish and seafood, frozen foods, frozen meats and grocery products through the acquisition of Morris Elkis & Sons ("Elkis") of Woodbury, New Jersey and Herb's Seafood, Inc. ("Herb's") of Mt. Holly, New Jersey. The Company will use the proceeds of this offering to acquire Elkis and Herb's (see "Use of Proceeds").

The Company has agreed to purchase the assets and inventory of Elkis for a cash payment of approximately $140,000 and a ten (10) year Note in the amount of $213,000 secured by a first mortgage on the real estate of Elkis with a term of ten (10) years; interest on such mortgage to be at 9½%. per annum. The Company has given Elkis a $5,000 deposit against the purchase price to enable it to have an option on such purchase until April 15, 1970. The Company can extend such option until November 15, 1970 by the payment of an additional $5,000 by the 15th day of each month on the extension period after April 15, 1970. If the Company defaults on the exercise of such option, Elkis has the right to retain all deposits paid by the Company as liquidated damages. Elkis' inventory is to be purchased by the Company on the date of the exercise of its option on Elkis' capital stock. Such inventory shall be purchased at its cost to Elkis which, according to best estimates, will be approximately $50,000.

The Company has agreed to purchase the assets of Herb's for $15,000 worth of its unregistered Common Stock and $5,000 in cash. For the consideration of $1.00 Herb's has granted an option thereon to the Company; the exercise of such option is contingent on the Company's consumation of the acquisition of Elkis.

Both Herb's and Elkis distribute food products to restaurants, wholesalers, and retail establishments in the South Jersey areas. If Elkis and Herb's are successfully acquired, to obtain operating efficiencies, it is the Company's intention to merge Herb's operation into Elkis.

Acquisitions

On August 5, 1969 the Company exchanged 30,000 shares of its Common Stock for 100,000 shares of Electro-Dent, Inc., a Delaware corporation which had been incorporated on July 25, 1969. The Company as of the present date owns approximately 16% of the outstanding stock of Electro-Dent, Inc.

Electro-Dent, Inc. owns the patent rights to a dental handpiece incorporating a miniaturized electronic generator into the handpiece of a standard dental turbo drill. The Electro-Dent, Inc. drill utilizes minute

amounts of current delivered by the generator to the tip of the drill and then to a tooth's nerves as the anesthesizing agent, thus eliminating the need for novocaine or gas in many instances. The Veterans Administration Clinic in New York City has been testing the Electro-Dent, Inc. drill for three years and will shortly publish its results in a dental research journal..

On October 3, 1969, the Company purchased 40 acres of land in Egg Harbor, New Jersey, for $7,623.12 in cash plus 3,500 shares of unregistered stock of Management Dynamics, Inc. valued at $5,250. ($1.50 per share). Other costs associated with the purchase amounted to $762 making the total investment in the land $13,635.12.

The Company has paid $10,000 for an option to purchase for $450,000 in cash and notes and 107,000 shares of the Company's Common Stock approximately 200 acres of land located in the Pocono Mountains near Milford, Pa. Said option expires on April 1, 1970. It is unlikely that the Company will exercise this option.

Competition

The Company in its three divisions and in its acquisition program will compete with many much larger well established organizations which have greater resources than are available to the Company.

DESCRIPTION OF COMMON STOCK

The authorized capital stock of the Company consists of 2,000,000 shares of Common Stock, par value $.01 per share. The following description of Common Stock does not purport to be complete, and references are made to the Company's Certificate of Incorporation and the Company's Amended Certificate of Incorporation, copies of which have been filed as Exhibits to the notification on Form 1-A of which this Offering Circular forms a part.

Dividend Rights. The holders of Common Stock are entitled to receive dividend rights when and as declared by the Board of Directors. No dividends have been declared on the Company's stock to date, and the Company has no present intention of paying dividends in the foreseeable future.

Voting Rights. Holders of shares of Common Stock are entitled to one non-cumulative vote per share on all matters. With respect to the election of directors this means that the holders of more than 50% of the shares voting may elect all of the directors of the Company if they choose to do so, and in such event the holders of the remaining shares will be unable to elect any of the directors.

Liquidation Rights. In the event of liquidation, dissolution or winding up of the Company the holders of the shares of Common Stock are entitled to share ratably in all of the assets of the Company available for distribution to its shareholders.

General. Holders of Common Stock have no pre-emptive or other subscription rights, and there are no redemption or sinking fund provisions applicable thereto. All shares of Common Stock now outstanding are fully paid and non-assessable. The Company intends to furnish its stockholders with annual reports including certified financial statements.

Transfer Agent

Automated Broker Services, Inc., Clifton, New Jersey has been appointed the Transfer Agent for the shares of Common Stock, and Units offered hereby.

DESCRIPTION OF WARRANTS

Each of the 100,000 Units will include one immediately detachable and transferable Warrant (the "Warrant"), entitling the holder to purchase one share of the Company's Common Stock at a price per share for a period of one year commencing one year after the date of this Offering Circular. The terms and conditions of the Warrant are set forth in the Warrant Agreement on file with Warrant Agent. The Warrants will expire on at 5:00 P.M. Eastern Standard Time (the "expiration time"). Warrants not exercised by that time will become void. will act as Warrant Agent (the "Agent") with respect to the Warrants.

The Warrants may be exercised by filling out and signing the appropriate form on the Warrant and mailing or delivering the Warrant to the Agent in time to reach it by the expiration time, accompanied by payment of the full purchase price of $ for every Warrant being exercised. Payment of the purchase price should be made in United States funds by check, cash, or bank draft, or postal express money order, payable in the United States to the order of the Agent or to the order of Management Dynamics, Inc.

The purchase price and the number of shares issuable upon exercise of the Warrants are adjustable upon the occurrence of certain events, including stock dividends, stock splits or combinations, the issuance of additional stock at less than the purchase price under certain circumstances and recapitalizations, mergers, or reorganizations, all as set forth on the Warrant Certificate. No fractional shares will be issued upon the exercise of Warrants but the Company will pay the cash value of any fractional shares otherwise issuable on the basis of the current market value of the Common Stock on the day prior to the date of exercise. No adjustment as to cash dividends, if any, will be be made upon exercise of the Warrants. The holders of Warrants are not entitled to any of the rights of holders of shares of Common Stock.

The shares of the Company's Common Stock which are subject to the Warrants are not registered or otherwise qualified under the Securities Act of 1933, as amended; however, the Company is obligated to register the shares subject to the Warrants so as to permit a public offering of the said shares in compliance with the Securities Act of 1933, as amended.

For the life of the Warrants included in the Units, the Warrant holder is given the opportunity to profit from a rise in the market value of the Common Stock of the Company, if any, at the expense of the Common Stockholders, and the Company might be deprived of favorable opportunities to procure additional equity capital, if it should be needed, for the purposes of its business. A Warrant holder may be expected to exercise the Warrants at a time when the Company, in all likelihood, would be able to obtain equity capital, if it needed capital then, by public sale of a new offering on terms more favorable than those provided by the Warrants.

QUALIFIED STOCK OPTION PLAN

On June 26, 1969, shareholders of the Company adopted and approved a Qualified Stock Option Plan ("The Plan") previously adopted by the Board of Directors, pursuant to Section 422 of the Revenue Act of 1964, covering 50,000 shares of the Company's Common Stock. The Plan is intended to provide greater incentive for key employees to remain in the employ of the Company or its subsidiaries as well as to attract to the Company or its subsidiaries persons of outstanding competence.

Options may be granted to key employees of the Company or its subsidiaries. No option may be granted to any individual owning, at the time of such grant, stock possessing 5% or more of the total combined voting power of the Company or its subsidiaries. In addition, no individual shall receive an option or options under the Plan to purchase a total of more than 10,000 shares of the Common Stock.

Each option shall expire not more than five years from the date of grant. Each optionee must remain in the continuous employ of the Company or a subsidiary for a period of one year from the date of grant before he may exercise any part of his option. Options will be exercisable only during the optionee's employment with the Company or its subsidiaries, or six months after the termination of such employment or death.

In the event that the capitalization of the Company shall change during the period in which options granted under the Plan may be exercised, including an increase in shares resulting from a stock dividend, the option price per share shall be appropriately adjusted, but no adjustment in the option price shall be made which would reduce the option price per share to less than the par value thereof.

The Board of Directors may amend, suspend or discontinue the Plan at any time except with respect to options then outstanding under the Plan.

As of the date of this Offering Circular, no options have been granted under the Qualified Stock Option Plan.

Exhibit 5 - Offering Circular

NON-QUALIFIED STOCK OPTION PLAN

The Company's Board of Directors on June 16, 1969 adopted a Non-Qualified Stock Option Plan ("Plan") for the benefit of an officer and director as set forth below. The Plan was approved at a shareholders' meeting held on June 26, 1969.

Under the Plan (i) an aggregate of 7,500 shares of common stock have been reserved for issue; (ii) all options under the Plan were granted as of June 16, 1969; (iii) options granted will be exercisable beginning one year after the date of grant in cumulative annual installments of not more than 25%; (iv) all options have been granted for a term of 5 years; (v) the option price per share is twenty-five cents ($.25) per share which equaled the fair market value of the common stock on the date of the grant; (vi) each option is non-transferable by the holder during his lifetime, but may be exercised by his heirs or devisees within 3 years after date of death, but not greater than 5 years after the date of grant; (vii) each option is protected against dilution.

The following five year options have been granted under the Plan:

Name	Position	No. of Shares Under Option Granted on June 16, 1969
Morton Elkis	Vice-President and Director	5,000 shs.
James Cox	Treasurer	2,500 shs.

MANAGEMENT

Officers and Directors

The Officers and Directors of the Company are:

Name	*Office*
Paul J. Goldin	President and Director
Bert Fein	Vice-President and Director
Morton Elkis	Vice-President and Director
William N. Levy	Secretary and Director
James Cox	Treasurer
Dr. Eugene L. Rosanoff	Director
Harry S. Dietrich, Jr.	Director
Art Raymond*	Director
Jeffrey Feinman*	Director

Paul Jay Goldin has been President and a Director of the Company since its inception. Mr. Goldin is also President and Director of Comp-U-Hedge Fund. From 1966 to 1969 he served as Manager of the Material Quality Assurance section of the RCA Corp. From 1964 to 1966 he was a managing partner of Palmac Industries, a wholesale distributor of phonograph records. Since 1960, Mr. Goldin has been a member of the faculty of the Drexel Institute of Technology, teaching Statistics and Business Management. He is also President and a Director of Financial Managers, Inc., and a Director of other corporations. Mr. Goldin received a Bachelor of Arts degree from Wesleyan University, a Bachelor of Science degree from the Massachusetts Institute of Technology, and a Master of Business Administration degree

* pro tem

from the Drexel Institute of Technology. He has completed all course requirements for a doctorate in Economics from the University of Pennsylvania. Mr. Goldin is 37 years old and resides at 516 Garwood Drive, Cherry Hill, New Jersey.

Bert Fein has been Vice-President and a Director of the Company since its inception. From 1968 to date he has been employed at Technicon Corporation, Tarrytown, New York where he is now Vice-President, Operations. Mr. Fein, from 1966 to 1968 was Manager of Production Administration of RCA Corp. From 1965-1966 he was Executive Vice-President of Noramco Corp. He is also Vice-President and a Director of Financial Managers, Inc., and a Director of other corporations. Mr. Fein is 45 years old and resides at 171 N. Mansfield Blvd., Cherry Hill, New Jersey.

Morton Elkis has been Vice-President and a Director of the Company since June 16, 1969. For the past five years Mr. Elkis has been Secretary, Treasurer of Morris Elkis & Sons, Inc., a wholesale food distributor located in Southern New Jersey. Mr. Elkis is 42 years old and resides at 1003 Lomber Drive, Cherry Hill, New Jersey.

James Cox has been Treasurer of the Company since its inception. From 1965 until December 1969, Mr. Cox was administrator of cost control for RCA. Since December 1969, Mr. Cox has been administrator of product analysis for RCA of Camden, New Jersey. Mr. Cox is 37 years old and resides at 9 Delaware Avenue, Berlin, New Jersey.

William N. Levy, Esq. has been Secretary and a director of the Company since its inception. He is a partner in the law firm of Levy and Lacktman, 603 Wilson Building, 130 North Broadway, Camden, New Jersey, the general counsel for the Company. Mr. Levy received both his Bachelor of Arts Degree and his LL.B. Degree at the University of Pennsylvania. He is also Secretary and Director of Comp-U-Hedge Fund, and Financial Managers, Inc., as well as a Director of other corporations. Mr. Levy is 29 years old and resides at Northgate Apartments, Camden, New Jersey.

Eugene L Rosanoff, Ph.D. has been a Director of the Company since June 16, 1969. Dr. Rosanoff is also Vice-President—Treasurer, and Director of Comp-U-Hedge Fund. Dr. Rosanoff received his B.S. Degree from the University of Wisconsin and his M.S. and Ph.D. Degrees in Medical Microbiology from the University of Pennsylvania. Since 1956 he has been employed by Wyeth Laboratories, Inc., Radnor, Pennsylvania, a division of American Home Products Corp., as a Senior Research Scientist in the area of virus research. Dr. Rosanoff is the author of numerous papers and has made presentations at medical symposia throughout the world. He has served as a member of the faculty at both the University of Pennsylvania School of Medicine and School of Veterinary Medicine. He is a director of Financial Managers, Inc. Dr. Rosanoff is 43 years old and resides at 513 Tea Rose Lane, Cherry Hill, New Jersey.

H. S. Dietrich, Jr. was elected a Director of the Company on December 7, 1969. From 1967 to date, Mr. Dietrich has been Vice-President—Finance, Treasurer and Director of Technicon Corporation, Tarrytown, New York. Prior to 1967, Mr. Dietrich was Vice-President—Treasurer of Nuclear—Chicago, Corporation, a subsidiary of G. D. Searle & Co. Mr. Dietrich is 40 years old and resides at 30 Lake Street, White Plains, N. Y.

Art Raymond has been nominated a Director of the Company by the Board of Directors contingent on stockholders approval. Mr. Raymond is a New York and Philadelphia Radio and TV personality, and is heard daily on WEVD AM-FM New York and on Sundays WWRD FM in Philadelphia. Mr. Raymond is 45 years old and resides at Foxglen Road, Hartsdale, New York.

Jeffrey Feinman has been nominated a Director of the Company by the Board of Directors contingent on stockholders approval. Mr. Feinman is Vice-President of D. L. Blair Corporation of New York, New York. D. L. Blair is a market promotion company. Mr. Feldman is 27 years old and resides at 411 East 53rd St., N. Y., N. Y.

Paul J. Goldin, Bert Fein and William N. Levy may be deemed "founders" and "parents" of the Company as such terms are defined in the general rules and regulations under the Securities Act of 1933.

Remuneration

No officer or director received salaries in excess of $30,000 in 1969 and no officer or director will receive a salary of more than $30,000 in 1970. It is anticipated that directors who are not officers of the Company will receive $100 compensation for each Board of Directors meeting they attend.

The Company carries a $50,000 life insurance policy on the life of Paul Jay Goldin, President of the Company and intends to increase this to $150,000 after the offering. The Company who will be paying the premiums on this policy will be the owner and beneficiary thereof. Although the Company has not entered into any employment agreement, assuming the successful acquisition of Elkis by the Company (see "Business-Food Distribution Division"), it is contemplated that the aggregate management remuneration for the year 1970 will be $71,000 to be paid as follows: Paul J. Goldin—$20,000, Bert Fein—$10,000, James Cox—$16,000, Morton Elkis—$25,000. Mr. Goldin will devote 1/3 of his time, Mr. Fein will devote 1/4 of his time, Mr. Cox will devote full-time, and Mr. Elkis will devote full-time, to the business of the Company.

The Company will carry a $100,000 insurance policy on the life of Eugene Block, head of the Company's Printing and Advertising Services Division. H. K. Visuals, Ltd. has entered into three year employment contracts with Mr. Block and Herbert Kassoff commencing January 1, 1970 under which Mr. Block is to receive not less than five hundred ($500) dollars per week and Mr. Kassoff not less than three hundred ($300) dollars per week. (see "Business-Printing and Advertising Services Division").

Principal Stockholders

The following table sets forth the Common Stock ownership as of the date of this Offering Circular, of all persons who own of record or beneficially more than 10% of the Company's Common Stock which was outstanding on such date, and the ownership on such date of such Common Stock by all officers and directors as a group.

Name and Address	Type of Ownership	Number of Shares Owned	Percentage of Outstanding Stock Before Underwriting	Percentage of Outstanding Stock After Underwriting
Paul J. Goldin 516 Garwood Drive Cherry Hill, N. J.	Record and Beneficial	55,000	9.07%	7.78%
Bert Fein 171 N. Mansfield Blvd. Cherry Hill, N. J.	Record and Beneficial	55,000	9.07%	7.78%
William N. Levy Northgate Apartments Camden, N. J.	Record and Beneficial	55,000	9.07%	7.78%
All directors and officers	Record and Beneficial	172,000	28.46%	24.36%

CERTAIN MATERIAL TRANSACTIONS

On March 14, 1969 Paul J. Goldin, Bert Fein and William N. Levy, all officers and directors of the Company, each purchased two hundred and seventy-five shares of the Company's unregistered Common Stock at $.01 per share. On March 16, 1969 James Cox and Howard Brody each purchased 5 shares of the Company's unregistered Common Stock at a price of $.01 per share. On March 21, 1969 the following directors and business associates purchased a total of 57½ shares of the Company's unregistered Common stock at a price of $200 per share or an aggregate consideration of $11,500: Allan Weissburg—5 shares, Norman Kurdell—5 shares, Edward Galerman—5 shares, David Molotsky—5 shares, Eugene Rosanoff—5 shares, H. S. Dietrich, Jr.—10 shares, Howard and Toby Mazer—10 shares, Goldie C. Goldin—5 shares, William Marovitz—5 shares, Howard Gordon—2½ shares.

Exhibit 5 - Offering Circular

On May 23, 1969 the shareholders of Management Dynamics, Inc. met and approved an increase in the Company's capital stock to 2,000,000 authorized shares. At that time, the shareholders approved a stock-split of 200 shares for each then outstanding share.

On June 20, 1969 the Company amended its Certificate of Incorporation to increase the total authorized capital of the corporation to 2,000,000 shares of Common Stock of a par value of $.01 per share. After such recapitalization and the stock split authorized on May 23, 1969, the number of outstanding shares was increased to 178,500.

On June 22, 1969, the Company issued 99,750 shares of its unregistered Common Stock to 17 business associates, who had rendered accounting, financial, secretarial and managerial services to the Company from the date of its inception until the date of such issuance.

On June 26, 1969, the Company's shareholders approved a share-for-share exchange with Northeastern Amusement Rides & Service Corp. with Management Dynamics, Inc. to be the surviving company. On June 26, 1969, Northeastern shareholders approved such merger and Management Dynamics, Inc. issued 122,000 shares to the stockholders of Northeastern Amusement Rides & Service Corp.

On August 5, 1969, the Company exchanged 30,000 shares of its unregistered Common Stock for 100,000 unregistered Common Shares of Electro-Dent, Inc., a Delaware corporation (see "Business-Acquisitions").

On August 27, 1969, S. Arthur Levy, the father of the Company's Secretary, purchased 8,000 shares of the Company's unregistered Common Stock for $.75 per share for an aggregate consideration of $6,000. On September 5, 1969, the Company sold 33,000 shares of its unregistered Common Stock to 9 investors at $1.00 per share for an aggregate consideration of $33,000. On September 29, 1969, the Company sold 39,000 shares of its unregistered Common Stock to 14 investors at a purchase price of $1.50 per share for an aggregate consideration of $58,500.

On October 3, 1969, the Company purchased 40 acres of land in Egg Harbor, New Jersey for 3,500 shares of the Company's unregistered Common Stock and $7623.12 in cash.

On October 24, 1969 the Company acquired the physical assets and goodwill of the Willingboro Spa, Inc. of Willingboro, New Jersey for 4,000 shares of the Company's unregistered Common Stock and $10,000 in cash and also acquired the Vineland Health Club, Inc. of Vineland, New Jersey for 5,500 shares of the Company's unregistered Common Stock and $2,888 in eight equal notes of $361 each, the first payment on such notes to be paid on December 15, 1969. In connection with the purchase of both spas, Management Dynamics, Inc. paid a finders fee of $2,550. On October 25, 1969, in return for the Company's transfer of the physical assets and good will of the Willingboro Spa, Inc., the transfer of 100% of the Common Stock of Vineland Health Club, Inc., and the $2,888 note obligation to Leisure Time Enterprises, Inc., the Company received 551,667 shares of the unregistered Common Stock of Leisure Time Enterprises, Inc., which represents approximately 68% of the outstanding shares of Leisure Time Enterprises, Inc.

On November 5, 1969, the Company issued 5,000 shares of its unregistered Common Stock, to Richard Kaufman and 5,000 shares of its unregistered Common Stock to Jack Silbiger for consulting services which each had rendered to the Company.

On December 30, 1969, the Company acquired the business and assets of H. K. Visuals, Ltd., New York, New York, for 70,000 shares of its unregistered Common Stock (see "Business-Printing Services Division"). Included in said 70,000 unregistered shares were 3,500 shares issued to Jack Katz for services rendered as co-finder. In addition to paid 70,000 shares, the Company issues 3,500 additional shares of its unregistered common stock to Gerald Morganstern for services rendered as co-finder.

UNDERWRITING

The Underwriter, E. L. Aaron & Company, Inc., has entered into an Agreement ("Underwriting Agreement") with the Company under which the Underwriter has agreed to use its best efforts to sell to the public, and the Company has agreed to permit the Underwriter to offer to the public for ninety days

from the date hereof at the price of per unit, 100,000 units, each unit consisting of one share of Common Stock, and a Warrant for the purchase of one share of Common Stock. Said ninety days can be extended for an additional thirty days upon consent of both the Company and the Underwriter. There is no assurance that any or all of the units offered hereunder will be sold. There are no arrangements to return any funds realized from the sale of these securities in the event that the entire offering is not sold. The Underwriting Agreement provides that the Company will pay to the Underwriter a commission of per cent ($. per unit) of the public offering price with respect to the sale of the units offered hereby, as well as a non-accountable and non-reimbursable expense allowance of $ ($. per unit).

The Company has agreed to issue to the Underwriter a Warrant to purchase one share of the Company's Common Stock for every ten units sold pursuant to this offering. In the event that all of the units offered hereby are sold, the Underwriter will receive Warrants to purchase 10,000 shares of the Company's Common Stock. The Warrants are exercisable during a 3 year, 13 month period commencing 13 months after the date of this Offering Circular at the price of $. per share. The Warrants are subject to adjustment to protect against dilution thereof through stock dividends and distributions, recapitalization, merger and consolidation (but not through issuance of Common Stock upon exercise of the Warrants). The Warrants may not be exercised, transferred or assigned for a period of 13 months from the date of their issuance. The Warrants shall be exercisable in whole or in part over the exercise period. The Company has agreed with the Underwriter, upon its request, to use its best efforts and take such action under the Securities Act as shall be required to permit the public sale of the Warrants and/or shares of the Common Stock purchasable upon exercise thereof. The Warrants and the underlying shares of Common Stock which may be issued in exchange for such Warrants will be held in escrow for 13 months after the closing date pursuant to Rule 253 (c) (2) of the Securities Act of 1933. For the life of the Warrants, the Warrant holder is given the opportunity to profit from a rise in the market value of the Common Stock of the Company, if any, at the expense of the Common Stockholders, and the Company might be deprived of favorable opportunities to procure additional equity capital, if it should be needed, for the purposes of its business. A Warrant holder may be expected to exercise the Warrants at a time when the Company in all likelihood would be able to obtain equity capital, if it needed capital then, by public sale of a new offering on terms more favorable than those provided by the Warrants.

The Underwriting Agreement contains reciprocal covenants against liability in certain instances including liabilities under the Securities Act of 1933, as amended. It further provides that the Underwriter shall have a right of first refusal to act as an Underwriter with respect to any public offering of securities made by the Company or its officers and directors within five years after completion of the offering made hereby. For a period of five years from the day hereof, the Company is obligated to provide the Underwriter with (1) annual certified financial statement and (2) all reports of general interest sent or given to stockholders.

The foregoing is a summary of the principal terms of the Underwriting Agreement, which summary does not purport to be complete, and reference is hereby made to a copy of the Underwriting Agreement which is on file as an exhibit to the Notification with the New York Regional Office of the Securities and Exchange Commission for all of the terms of said Agreement.

LITIGATION

As of the present time the Company has had one suit filed against it. Such suit has been brought by an assignee of the rights of the previous attorney for Northeastern Amusement Rides & Services Corporation, which was merged into the Company on June 26, 1969 (see "Certain Material Transactions"). Such suit is based on a claim for services rendered prior to March 4, 1965 by the prior attorney to Northeastern Amusement Rides & Services Corporation. Such claim is for compensation for such alleged services rendered in the amount of 60,000 shares of the Company's Common Stock and $19,850.00 in cash plus interest thereon.

As of the date of this Offering Circular, to the Company's knowledge, there are no other legal actions pending or threatened against the Company, or to which the Company or any of its property is subject, nor to the Company's knowledge are any of such proceedings contemplated.

Exhibit 5 - Offering Circular

LEGAL OPINIONS

Legal matters in connection with the sale of the units offered hereby are being passed on for the Company by Levy and Lacktman, 603 Wilson Building, 130 N. Broadway, Camden, New Jersey 08102; and for the Underwriter by Morton Schimmel, 111 Broadway, New York, New York 10006. Mr. William N. Levy, a partner of Levy and Lacktman, is an officer and director of the Company, as well as a shareholder thereof.

ADDITIONAL INFORMATION

The Company has filed with the New York Regional Office of the Securities and Exchange Commission, a Notification, with exhibits thereto, covering the sale of the units offered hereby pursuant to the exemption from Registration ordered by Section 3 (b) of the Securities Act of 1933, as amended, in Regulation "A" promulgated thereunder. This offering circular contains a summary of the information set forth in such Notification and the exhibits thereto in reference to such Notification, with exhibits is hereby made.

EXHIBIT 6 - PRESS RELEASE DATED OCTOBER 13, 1972

Orenstein Advertising, Inc.

ADVERTISING ☐ PUBLIC RELATIONS ☐ FINANCIAL PUBLIC RELATIONS

1601 Walnut St., Room 713, Philadelphia, Pa. 19102 • (215) LO 8-5375

NEWS RELEASE FOR IMMEDIATE RELEASE (mailed 13/Oct/72)

MANAGEMENT DYNAMICS, INC., ANNOUNCES IT PLANS TO ERECT A RETIREMENT COMMUNITY IN BURLINGTON COUNTY, NEW JERSEY

Philadelphia, Pa.--Management Dynamics, Inc. (O-T-C), a New Jersey corporation, announced that it has secured an option to purchase 700 acres of land in Burlington County, New Jersey, on which it plans to construct a retirement community containing approximately 2,000 to 2,800 dwelling units together with commercial and recreational facilities.

Purchase price of the land, upon exercise of the option, would be in excess of $1 million. The option to buy is subject to the local community's passage of an ordinance that would permit the construction of a retirement community...as well as State of New Jersey permission to erect a sewage treatment plant.

Mr. Edwin J. Barrett, recently elected president of Management Dynamics, said that he has met with local officials, and that there appears to be no obstacle in the way of passage of the local ordinance. He added that preliminary studies for an acceptable sewage treatment plant are already underway.

Current plans call for construction of both single and multi-family dwelling units, with one and two bedrooms, priced to sell from $15,000 to $33,000. Mortgage financing for the entire project would be in excess of $25 million.

Site of the proposed development is approximately 35 minutes from downtown Philadelphia, with frontage on a state highway.

Mr. Barrett said that his company is planning to develop a retirement community "because there is a demonstrated demand for this type of housing in the area."

ANSWER OF DEFENDANT SAMUEL D. HODGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X 73 Civil 2642 RLC

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

ANSWER OF DEFENDANT SAMUEL D. HODGE

MANAGEMENT DYNAMICS, INC.,
WILLIAM N. LEVY,
EDWIN BARRETT,
CLYDE GOFF,
EPHRAIM HOFFMAN,
PETER R. WATSON,
GLOBAL SECURITIES, INC.,
ALLEN LANGENAUER,
DAVID LANGENAUER,
BERNARD OSCHERS,
LEE SCHNEIDER,
A. J. CARNO, INC.,
ANTHONY NADINO,
MAYFLOWER SECURITIES, INC.,
JOSEPH CIRELLO,
FAIRFIELD SECURITIES, INC.,
THOMAS F. BRENNAN, III, and
SAMUEL D. HODGE,

Defendants.

----------X

The defendant, SAMUEL D. HODGE, by his attorney DAN BRECHER, ESQ., for his answer to the complaint of the plaintiff, SECURITIES AND EXCHANGE COMMISSION ("Commission"), alleges as follows:

FIRST: Defendant, SAMUEL D. HODGE ("Hodge") denies each and every allegation contained in paragraph numbered "1" of the Commission's complaint.

SECOND: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "2" of the Commission's complaint.

THIRD: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "3" of the Commission's complaint.

FOURTH: Defendant, Hodge, admits the allegations contained in paragraph numbered "4" of the Commission's complaint.

FIFTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "5" of the Commission's complaint, except that the defendant Hodge, upon information and belief, admits that the defendant, Management Dynamics, Inc., ("MD") is a New Jersey corporation with its principal offices at 1524 Walnut Street, Philadelphia, Pennsylvania.; that since September, 1972, the principal business of the defendant MD has been land development; that on or about December 8, 1972, the Commission suspended the over-the-counter trading of MD securities; that the Commission's suspension release noted the rise in the bid of MD common stock from August of 1972 to December, 1972; and that on or about March 21, 1973, the Commission terminated the aforementioned trading suspension.

SIXTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "6" of the Commission's complaint, except that the defendant Hodge, upon information and belief, admits that the defendant Levy is an attorney admitted to practice in the State of New Jersey, that Levy's office address was 130 North Broadway, Camden, New Jersey, and that since the incorporation of defendant MD, the defendant Levy has been Secretary and a Director of defendant MD.

SEVENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "7" of the Commission's complaint, except that the defendant Hodge, upon information and belief, admits that the defendant Edwin Barrett ("Barrett") is and since September 6, 1972 has been the President and Chief Operating Officer of the defendant MD.

EIGHTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "8" of the Commission's complaint, except the defendant Hodge, upon information and belief, admits that the defendant Clyde Goff ("Goff") is a Vice-President and Director of the defendant MD.

NINTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "9" of the Commission's complaint, except that defendant Hodge, upon information and belief admits that the defendant Ephraim Hoffman ("Hoffman") is and since July, 1972 has been a Vice-President, Treasurer, and a Director of the defendant MD; that the defendant Hoffman resides at 600 Wayfield Road, Wynnewood, Pennsylvania; and that the defendant Hoffman owns some 229,000 shares of MD common stock.

TENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "10" of the Commission's complaint.

ELEVENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "11" of the Commission's complaint, except that defendant Hodge, upon information and belief, admits that defendant Global is doing business as a broker-dealer in securities in the State of New Jersey.

TWELFTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "12" of the Commission

complaint, except that defendant Hodge, upon information and belief admits that defendant Allen Langenauer is an officer and director of defendant Global.

THIRTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "13" of the Commission's complaint, except that defendant Hodge, upon information and belief, admits that defendant David Langenauer is the father of defendant Allen Langenauer and an officer and director of defendant Global.

FOURTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "14" of the Commission's complaint.

FIFTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "15" of the Commission's complaint.

SIXTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "16" of the Commission's complaint.

SEVENTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "17" of the Commission's complaint.

EIGHTEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "18" of the Commission's complaint.

NINETEENTH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "19" of the Commission's complaint.

TWENTIETH: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "20" of the Commission's complaint.

TWENTY-FIRST: Defendant, Hodge, denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "21" of the Commission's complaint.

TWENTY-SECOND: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "22" of the Commission's complaint, except that the defendant Hodge admits that he is or

was an investor in a holding company which owns or owned the controlling interest of the defendant Global Securities, Incorporated ("Global"); that he, or companies he owns or controls, own approximately 100,000 shares of MD common stock; that he and/or his companies sold 11,200 shares of MD common stock, and purchased 44,150 shares of MD common stock; that he acquired 5,000 shares of MD common stock from Global at approximately $6.00 per share; that he loaned $25,000.00 to Global in October of 1972; and that he resides at 6949 Sherwood Road, Philadelphia, Pennsylvania.

TWENTY-THIRD: Defendant, Hodge, repeats, realleges, and reiterates each and every answer contained in paragraphs "FIRST" through "TWENTY-SECOND" of this answer as if more fully set forth herein.

TWENTY-FOURTH: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "24" of the Commission's complaint, as each allegation may relate to the defendant Hodge, and denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "24" of the Commission's complaint as they relate to the other defendants named in the complaint.

TWENTY-FIFTH: Defendant, Hodge, upon information and belief, admits the allegations contained in paragraph numbered "25" of the Commission's complaint.

TWENTY-SIXTH: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "26" of the Commission's complaint.

TWENTY-SEVENTH: Defendant, Hodge, repeats, realleges, and reiterates each and every answer contained in paragraphs "FIRST" through "TWENTY-SIXTH" of this answer.

TWENTY-EIGHTH: Defendant, Hodge, denies each and every allegation contained in paragraph number "28" of the Commission's complaint, as each allegation may relate to the defendant Hodge, and denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered "28" of the Commission's complaint as they relate to the other defendants named in the complaint.

TWENTY-NINTH: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "29" of the Commission's complaint, as each allegation may relate to the defendant Hodge, and denies that he has knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "29" of the Commission's complaint as they relate to the other defendants named in the complaint.

THIRTIETH: Defendant, Hodge, denies each and every allegation contained in paragraph numbered "30" of the Commission's complaint.

AS AND FOR
DEFENDANT HODGE'S FIRST
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-FIRST: This Court lacks jurisdiction over the subject matter of this action.

AS AND FOR
DEFENDANT HODGE'S SECOND
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-SECOND: The Southern District of New York is not the proper venue for this action inasmuch as this action is not properly before this Court and the plaintiff should have instituted this action against the defendant Hodge in the Federal District Court in the District in which the said defendant resides.

AS AND FOR
DEFENDANT HODGE'S THIRD
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-THIRD: Plaintiff has failed to state a claim against the defendant Hodge upon which relief can be granted.

AS AND FOR
DEFENDANT HODGE'S FOURTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-FOURTH: Any issuance of securities by defendant MD which may have in fact taken place during the period alleged in the plaintiff's complaint were exempt from the registration provisions of the Securities Act of 1933, as amended, and the Securities and Exchange Commission Act of 1934.

AS AND FOR
DEFENDANT HODGE'S FIFTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-FIFTH: With respect to any statements, oral or written, or letters which may be attributable to the defendant Hodge, the defendant Hodge believed after exercising due diligence that such statements were true, accurate, and complete at the time which such statements were made.

AS AND FOR
DEFENDANT HODGE'S SIXTH
COMPLETE AND AFFIRMATIVE DEFENSE

THIRTY-SIXTH: With respect to any and all statements, oral or written, letters or press releases, which were made by other defendants in this action, other than the defendant Hodge, which may have been misleading or with respect to omissions to state material facts which omissions may be attributable to defendants other than the defendant Hodge, the defendant Hodge did not know and in the exercise of due diligence, could not have known of such misstatements or omissions.

THIRTY-SEVENTH: The action against the defendant Hodge should be segregated and severed from the action against the other named defendants.

WHEREFORE, Defendant, Hodge, demands judgment against the plaintiff dismissing the plaintiff's complaint and judgment of costs and disbursements against the plaintiff, SECURITIES AND EXCHANGE COMMISSION.

Dated: New York, New York
July 25, 1973

DAN BRECHER, ESQ.
Attorney for Defendant SAMUEL D. HODGE
230 Park Avenue
New York, New York 10017
(212) 986-2820

AFFIDAVIT OF SAMUEL D. HODGE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

----------X Nos. 74-1680
74-2148

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee,

v.

MANAGEMENT DYNAMICS, INC., et al., AFFIDAVIT

Defendants, and

SAMUEL D. HODGE,

Defendant-Appellant.

----------X

STATE OF PENNSYLVANIA)
) ss.:
COUNTY OF PHILADELPHIA)

SAMUEL D. HODGE, being duly sworn, deposes and says:

1. I am a resident of the State of Pennsylvania and the defendant-appellant in the within action.

2. Annexed hereto are letters from me to my attorney, DAN BRECHER, dated October 16 and 22, 1973. The statements in said letters are true and accurate both regarding my wife's physical incapacition and my inability to travel to New York on the short notice provided as describec therein.

3. Also annexed hereto is a letter from my attorney to the Securities and Exchange Commission dated October 17, 1973. Mr. Brecher's statements with regard to my wife's condition and

my inability to attend the scheduled taking of my deposition because of the Commission's failure to provide reasonable notice thereof and true as set forth therein.

4. On one occasion, when the Commission did give reasonable notice, I came to New York to be examined by Roger Dietz, Esq., Special Counsel for the Commission. Upon a similar reasonable notice, I would again by able to and willing to so attend. Without reasonable notice, at least one week, I will be unable to so attend because I must arrange for someone to stay with and care for my wife.

Samuel D. Hodge

SAMUEL D. HODGE

Sworn to before me this

30th day of September, 1974.

Robert J. Aversa

ROBERT J. AVERSA, Notary Public
Philadelphia, Philadelphia County
My Commission Expires June 17, 1976

258867

In the Court of Common Pleas of Philadelphia County

Commonwealth of Pennsylvania
County of Philadelphia, ss.

I, AMERICO V. CORTESE, Prothonotary of the Court of Common Pleas of said county, which is a Court of Record having an official seal, being the officer authorized by the laws of the Commonwealth of Pennsylvania to make the following Certificate,

do Certify, That Robert J. Aversa Esquire, before whom the annexed affidavit was made, was at the time of so doing a NOTARY PUBLIC for the Commonwealth of Pennsylvania residing in the County of Philadelphia duly commissioned and qualified to administer oaths and affirmations and to take acknowledgments and proofs of Deeds or Conveyances for lands, tenements and hereditaments to be recorded in said Commonwealth of Pennsylvania, and to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere; and that I am well acquainted with the handwriting of the said NOTARY PUBLIC and verily believe the signature thereto is genuine, and that said oath or affirmation purports to be taken in all respects as required by the laws of the Commonwealth of Pennsylvania.

The impression of the seal of the Notary Public is not required by law to be filed in this office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, this 7th day of OCTOBER in the year of our Lord one thousand nine hundred seventy-four (1974).

AMERICO V. CORTESE, Prothonotary,

By Homer Cook Grasberger Deputy Prothonotary

112a Homer Cook Grasberger

EXHIBIT A - LETTER FROM SAMUEL D. HODGE DATED OCTOBER 22, 1973
ANNEXED TO FOREGOING AFFIDAVIT

PARAMOUNT RECORD MANUFACTURING CO.
1314-24 S. HOWARD STREET — PHILADELPHIA, PA. 19147
(215) DEwey 6-7001

Mr. Dan Brecher, Esq.
230 Park Avenue
New York City
New York 10017

October 22, 1973

Dear Dan:

As I previously stated in my letter of October 16th, 1973, I am willing tc come up to New York City for the Security & Exchange Commission hearing, but I must have time to make arrangements for someone to stay with my wife if I will be away for several hours.

There is no way I would be able to travel to New York City on such short notice. I would need at least one week's time to make the necessary arrangements for this or any other trip. I am sure that the judge will appreciate my position with regard to my wife's physical condition. If they want to contact our doctors about my wife's predicament, I shall be more than happy to submit their names.

Thank you for your assistance in this situation.

Sincerely yours,

Samuel D. Hodge

SAMUEL D. HODGE

SDH:ma

Defendant SAMUEL D. HODGE
Exhibit "A"

EXHIBIT B - LETTER FROM SAMUEL D. HODGE DATED OCTOBER 16, 1973 ANNEXED TO FOREGOING AFFIDAVIT

PARAMOUNT RECORD MANUFACTURING CO.

1314-24 S. HOWARD STREET — PHILADELPHIA, PA. 19147

(215) DEwey 6-7001

Mr. Dan Brecher
230 Park Avenue
New York City
New York 10017

October 16th, 1973

Dear Dan,

Due to my wife's illness——she is completely bedridden——I will not be able to attend the deposition hearing scheduled for October 17th, 1973. Just last week we were informed of some extremely bad news: our eye specialist told us that she is now completely blind. Her already poor physical condition (rheumatoid arthritis) plus this recent piece of bad news has incapacitated her to such an extent that I now would need at least one week to prepare such a trip away from home.

The problem involved here is that it is unbelievably difficult to locate some one to take care of my wife while I am out of town. If I cannot find someone who is adequately competent, I will have to arrange for my son and his wife to stay with her. These things take time. So as you can see, I need more than one day's notice for the deposition hearing, which is about all the time I received for this one.

As a matter of fact, due the above problem, I will not even be able to attend my neice's wedding on Saturday, October 20th.

Please let me know at the earliest when you propose a re-scheduling of this deposition hearing. Thank you for your help in this delicate matter.

Sincerely,

Samuel D. Hodge

SAMUEL D. HODGE

SDH:ma

EXHIBIT C - LETTER FROM DAN BRECHER DATED OCTOBER 17, 1973 ANNEXED TO FOREGOING AFFIDAVIT

Law Offices

DAN BRECHER

230 Park Avenue, New York, N.Y. 10017

(212) 986-2820

October 17, 1973

Roger M. Deitz, Esq.
Special Counsel
Securities and Exchange Commission
New York Regional Office
26 Federal Plaza
New York, New York

Re: Securities and Exchange Commission v.
Management Dynamics, Inc., et al.
Index No. 73 Civ. 2642

Dear Mr. Deitz:

Confirming our previous conversations and our telephone conversation of this morning, I wish to reiterate that I deem your notice to take the deposition of Sam Hodge on October 17, 1973 at 10:00 a.m. to be defective upon the grounds that you have failed to provide reasonable notice in writing of your intention to take Mr. Hodge's deposition.

This objection is predicated in part upon the fact that in all our previous discussions and in Mr. Hodge's prior appearance before you, it was made clear that it would be impossible for Mr. Hodge to attend hearings or depositions without a reasonable time being allowed for him to arrange for someone to care for his wife while he is out of town.

As both Mr. Hodge and I have previously informed you on several occasions, his wife is complete bedridden and, moreover, last week Mr. Hodge learned that she is completely blind in addition to suffering from rheumatoid arthritis.

Defendant SAMUEL D. HODGE
Exhibit "C"

Exhibit C - Letter from Dan Brecher Dated October 17, 1973 Annexed to Foregoing Affidavit

Roger M. Deitz, Esq.
Securities and Exchange
Commission

October 17, 1973
Page 2

You can hardly expect Mr. Hodge to attend today's deposition when you served me with the notice for said deposition late Friday afternoon and Mr. Hodge didn't learn of said notice until Monday, October 15, 1973.

Very truly yours,

DAN BRECHER

DB:ve

cc: Hon. Robert L. Carter
To All Counsel

OPINION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, 73 Civ. 2642

-against-

MANAGEMENT DYNAMICS, INC., et al.,

Defendants.

----------x

A P P E A R A N C E S:

William D. Moran, Regional Commissioner
Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007
Attorney for Plaintiff

Lipkin, Gusrae & Held, Esqs.
225 Broadway
New York, New York 10007
Attorney for Defendant
William Levy

Jay D. Fischer, Esq.
444 Madison Avenue
New York, New York 10022
Attorney for Defendant
Thomas F. Brennan, III

Baar, Bennett & Fullen
One Battery Park Plaza
New York, New York 10004
Attorney for Defendant
Mayflower Securities

Feldshuh & Frank
144 East 44th Street
New York, New York 10017
Attorney for Defendants
A. J. Carno and Anthony Nadino

CARTER, District Judge

O P I N I O N

Nature of the Actions

The Securities and Exchange Commission ("SEC") instituted this action on June 13, 1973 alleging that defendants had violated Sections 5(a) and 5(c), 15 U.S.C. 77e(a) and 77e(c) (registration provisions of the Securities Act of 1933), Section 17(a), 15 U.S.C. 77q (a) (an anti-fraud provision of the Securities Act of 1933), and Section 10(b), 15 U.S.C. 78j(b) of the Securities and Exchange Act of 1934 and Rule 10-b-5 thereunder, 17 C.F.R. 240.10b-5 in the offer and sale of unregistered Management Dynamics ("MD") stock. Ten defendants have consented to the entry of permanent injunctions against them. Peter R. Watson did not file an answer and Samuel D. Hodge failed to appear as a witness as ordered by the court during the hearing on this matter. They are therefore in default. The remaining defendants are William W. Levy, Esq. ("Levy"), A. J. Carno, Inc. ("Carno"), Anthony Nadino ("Nadino"), Mayflower Securities, Inc. ("Mayflower"), Joseph Cirello ("Cirello"), and Thomas Brennan, III ("Brennan").

On September 28, 1973 defendants' motions to dismiss, to compel a more definite statement, to sever and to transfer were denied. A full evidentiary hearing ordered on the SEC's motion for a preliminary injunction was held on October 19 and 23, 1973.

The Reactivation of MD

Edwin Barrett is president and chairman of the Board of MD. He has been a builder and developer since 1962. Levy is a member of the bar of the State of New Jersey and has been practicing law in that state since 1966. He has handled a variety of matters involving the application and interpretation of the Securities Act of 1933 and the Securities and Exchange Act of 1934 and the rules and regulations of the SEC. Among these matters were at least six public offerings pursuant to registration statements filed with the Commission and seven public offerings pursuant to Regulation A. Securities matters have been a major part of Levy's work at least since 1969.

Some time in late 1971 or early 1972, Barrett met Levy and Barrett told Levy of his desire to operate through a publicly-held company. In June, 1972, Levy told him about MD which Levy indicated was a public company meeting Barrett's specifications. Levy advised Barrett that MD had no debts, several hundred shareholders and that its shareswere trading in the over-the-counter market; that it was inactive, and its sole asset was a plot of land in Canada. At the time of this conversation, Levy owned between 60,000 and 80,000

of MD common shares and MD offices were located in the same building that Levy maintained his law office. Barrett agreed to put $100,000 in the company in exchange for 2.7 million shares of MD common stock. On September 6, 1972 the transaction was ratified and the number of authorized shares was increased from four million to eight million in order that additional MD shares would be available for the acquisition of other assets in the future. Throughout this period Levy was consulted and actively participated in all matters involving MD activities.

The August 15 Letter

This agreement was made public in a letter to shareholders which was written, signed and its mailing authorized by Levy, and dated August 15, 1972. In addition to announcing a special stockholders' meeting to ratify the agreement with Barrett, the August 15 letter stated that MD's primary activity would "include the acquisition of developed and undeveloped real estate; the planning, engineering, zoning and site development of such real estate; and the design, planning and construction of dwelling units, commercial buildings and other structures which the company may hold for investment, lease or sell."
One of the assets listed in the letter was "an option

to acquire land in Bass River Twp, N.J." The letter did not indicate that this option was conditioned upon MD obtaining governmental approval for zoning and EPA approval to construct a sewage facility, nor that local, state and federal approval in a variety of matters would have to be obtained before the option could become an MD asset in any real sense.

Also cited as an "option to acquire land in Harleyville, Lower Salford Twp, Pennsylvania." The letter did not state that this option was contingent on obtaining a variance in zoning to permit high density residential construction on land then classified as agricultural. Attached to the letter was a financial statement with footnotes. The letter, the financial statements, and footnotes were reviewed by Levy.

The October Communications

Subsequently, a letter dated October 25, 1972 and a press release dated October 13, 1972, were mailed to all MD shareholders, including brokers and dealers, and to other persons requesting information about MD. Both the letter and press release were viewed by Levy before mailing. The October letter stated that all financing on the Red Mill project would be settled by February 15, 1973, but at the time the letter was written,

there was no certainty that this would be accomplished as projected. The Bass River Township option was the same was that described in the August letter. As in the earlier communication no mention was made of the conditions to which effective exercise of the option was subject. The option "to acquire 77 acres of land within three miles of a Lansdale Exit of the Pennsylvania Turnpike" set forth in the October letter is the Harleyville, Lower Salford Twp, Pennsylvania option described in the August letter. Again, as in August, the indeterminate nature of the option was not disclosed.

The option to purchase 700 acres of land in Burlington County where MD was planning a retirement community of dwelling units, commercial and recreational facilities, was subject to passage of a local ordinance permitting the construction of such facilities and state approval for construction of a sewage-treatment plant. The October release failed to indicate that the required approval by local and state officials might not be given. Moreover, purchase of the land was dependent upon MD being able to raise one million dollars ($1,000,000) and its development would necessitate MD obtaining an additional 25 million dollars ($25,000,000). None of these requisites were touched upon.

Barrett is indispensable to the functioning of MD, but this fact was not disclosed. The company has realized no income or profits since September, 1972, and Barrett has been paid no salary. These facts were not disclosed. During this period the salaries of employees and the expenses of MD were paid by Barrett and from the proceeds of sale of MD stock in the fall of 1972. This was nowhere disclosed. Levy reviewed the October letter and press release before they were mailed.

Thomas Brennan

Thomas Brennan, currently a registered principal at Amfco Securities, has worked in the securities field since 1966. Between August, 1972 and February, 1973, Brennan ran Fairfields securities trading department. He learned of MD from Allen Langenauer of Global Securities, and Global agreed to pay Brennan 1/8 point above his costs on all purchases for Global. At Global's request to buy MD shares, Brennan entered quotations in the Pink Sheets. Brennan's only information about MD was obtained from Global consisting of the August and October letters and October press release. He had no knowledge of the affairs, financial condition, management capabilities or the successes or failures of MD. His price for MD shares was based on the market for the shares. He did not communicate with MD and did not know

whether its shares were registered. Fairfield listed bid and offer quotations in the Pink Sheets from November 9, 1972 until December 8, 1972, and purchased between September 29, 1972 and December 8, 1972, 4,690 MD shares on the over-the-counter market of which 4,450 of those shares were sold to Global.

Joseph Cirello, Mayflower

Cirello is employed as a securities trader by Global. From February, 1972, to April, 1973, he held the same job at Mayflower. When Mayflower entered bid and offer quotations on MD in the Pink Sheets, Cirello traded in MD shares. The bid and offer quotations were based solely on supply and demand for MD shares. Cirello had no knowledge of MD management capabilities, profits, losses or assets. His only information on MD was supplied by Global and his inquiries for information from MD were returned address unknown. He intended to maintain a position in MD only when he had an unfulfilled order from Global. He never ascertained whether MD shares were registered with the Commission. Mayflower first appeared in Pink Sheets for MD shares on September 26, 1972 and the last offer and bid appeared on December 8, 1972. Between September 27, 1972 and December 1,1972, Mayflower purchased 9,078 MD shares in the over-the-counter market of which 7,247 shares were sold to Global.

On August 20, 1970, pursuant to an offer of settlement in which Mayflower neither admitted nor denied the allegations, the Commission found that Mayflower had wilfully violated §§ 5(a) and 5(c) of the Securities Act and § 15(c)(1) and 17(a)(3) of the 1934 Act, and Rules 15c1-4 and 17a-3, thereunder and suspended Mayflower for 40 days from effecting transactions as an underwriter or member of a selling group of a registered public offering of securities.

Anthony Nadino and Carno

Nadino is Vice-President of A. J. Carno, Inc. He has been employed by Carno since June, 1971 and assumed charge of Carno's trading in September, 1972. He began Carno trading in MD shares in June, 1971, but at the time he knew nothing about MD. He made no inquiry of the SEC to determine whether MD shares were registered, and quotations submitted to the Pink Sheets by Carno were based solely on the market for MD shares. The August and October letters, the October Press Release, data in National Stock Summary from April, 1970, to March, 1971, and an interoffice memorandum of November 28, 1972 of Filor Bullard & Smythe constituted Carno's total information on MD. Between September 28, 1972 and November 15, 1972 Carno purchased 11,226 MD shares in the over-the-counter market and 9,825 of these were sold to Global.

The Watson Transaction

In October, 1972, Levy told other MD directors of an opportunity to sell 960,000 unregistered shares at $1.10 per share through a Peter Watson. The success of the venture required the shares bear no restrictive legend and that they be issued in Watson's name. Levy assured the Board that this was proper procedure, as long as Watson signed an investment letter indicating knowledge that the stock was restricted. Although no such letter was ever signed by Watson, the Board in reliance on Levy's representations agreed to the transaction and authorized issuance of 960,000 shares in 5,000 share certificates. The Board ordered Levy to maintain custody and control of the shares until Watson identified the purchasers and had placed the purchase price for the shares in escrow. When that was done, the Watson shares were to be cancelled and new shares issued in the name of the real purchaser. Instead of keeping possession, moreover, Levy delivered the shares to Watson in October, 1972. In addition, Levy had 400,000 additional shares allocated to Watson in Dallas. In November or December Nadino was called by a broker in California offering 100,000 MD shares for sale. These shares were 5,000 share certificates in Watson's name.

In December, Levy requested that Watson return the 960,000 shares. The first shipment returned consisted of 710,000 shares and a receipt for 200,000 in escrow at The Central Cleveland International Bank of New York to which they had been delivered as collateral on a loan. The remaining shares were not received until January 28, 1973.

MD sold 1,300,000 unregistered shares between February, 1969, and October, 1972. It has never registered its shares with the Commission.

Violations of Section 17(a) of the 1933 Act and Section 10b of the 1934 Act Have Been Established

The August and October letters and the October press release omit material facts in respect of the conditional nature of the options cited. Moreover, these communications did not reveal Barrett's indispensability to the continued existence and operation of MD. Section 17(a) and Section 10(b) are violated when material facts are either not stated or misstated, or when any device or artifice is employed to defraud, or when any act as practiced operates as a fraud upon any person in connection with the sale or purchase of securities. Statements, such as those in the August and October communications, have been held to be false and misleading

within the anti-fraud provisions of the securities acts when essentially qualifying or explanatory information is not disclosed. Charles Hughes & Co., Inc. v. SEC, 139 F. 2d 434, (2d Cir. 1943), cert. denied, 321 U.S. 786 (1944). Levy's responsibility for these documents has been established, and his familiarity with the securities field makes clear that his action cannot be described as inadvertent.

Moreover, the conduct of Carno and Mayflower, Nadino, Cirello and Brennan in trading and quoting MD shares at prices not related to the activities of the company is also violative of the anti-fraud provisions of the Securities Act. The record established that artificially high prices were maintained; that the bulk of the shares purchased went to Global and that Brennan was assured 1/8 point profit on all shares acquired from Global. What was done here constituted fictitious quotations and manipulation of MD shares. See Franklin National Bank v. L.B. Meadows & Co., 318 F. Supp. 1339 (E.D.N.Y. 1970). The Securities Exchange Act Rule, 17 C.F.R. §240.15c2-1, makes it fraudulent for a broker or dealer to publish a quotation for any security unless the broker-dealer has information concerning the nature of the issuer's business, nature and extent of the issuer's facilities and

financial information for at least two preceding years. These broker-dealers had none of this information on MD.

Violations of Sections 5(a) and 5(c) of the Securities Act Have Been Established

The conduct of Levy in authorizing and delivering to Watson 960,000 MD shares and without the restrictive legend enabled Watson to offer those shares for purchase to others. Inquiry was made of Carno for sale of 100,000 of these shares and 200,000 shares were in escrow at The Central Cleveland Bank. It took six weeks after recall for all the shares to be returned. Watson during the time he had possession of the shares, was in position to offer them as validly issued registered MD shares to prospective purchasers. This Watson maneuvering was aided by the broker-dealers and their traders maintaining a market for MD securities. Watson and Global needed a market upon which to base a purchase price to enable them to dispose of their MD shares. The registration provisions were designed to protect investors by promoting full disclosure of information thought necessary for an informed investment decision. SEC v. Ralston Purina Co., 346 U.S. 119,124 (1953).

OPINION

The Right of SEC to Injunctive Relief

When the SEC seeks injunctive relief, the test to be applied is whether a proper showing of need has been established. SEC v. Broadwell Securities, Inc., 24C F. Supp 962 (S.D.N.Y. 1965). In FTC v. Rhodes Pharmacal Co., 191 F. 2d 744, 747-748 (7th Cir. 1951), the court defined proper showing as a "justifiable basis for believing, derived from reasonable inquiry or other credible information, that such a state of facts probably existed as reasonably would lead the Commission to believe that the defendants were engaged ..." in activities in violation of the securities acts involved.

Discontinuance or a claim of intent to discontinue illegal activity and even cessation of illegal acts are no bar to granting of injunctive relief.. United States v. Parke, Davis & Co., 362 U.S. 29 (1960). Proof of fraudulent intent is not essential to establish the Commission's right to injunctive relief under Section 17 (a). SEC v. Van Horn, 371 F. 2d 181 (7th Cir. 1968). Nor is fraudulent intent a requisite to injunctive relief under Section 5, SEC v. Mono-Kearsarge Consolidated Mining Co., 167 F. Supp. 248 (D. Utah 1958); nor is bad faith or evil motive an essential ingredient before prophylactic relief by the Commission may be secured for Section 10b violations. SEC v. Texas Gulf Sulphur Co., 401 F. 2d 833 (2d Cir. 1968).

OPINION

The illegal conduct of defendants and the Commission's right to injunctive relief have been clearly and conclusively established. Accordingly defendants Levy, Carno, Nadino, Mayflower, Cirello and Brennan are enjoined from violating Sections 5(a), 5 (c) and 17 (a) of the Securities Act of 1933, and Section 10 (b) of the Securities Exchange Act of 1934 and Rule 10 b-5 thereunder in connection with MD or any other securities.

SETTLE ORDER

s/ Robert L. Carter
ROBERT L. CARTER
U.S.D.J.

Dated: New York, New York
March 29, 1974

4/10/74
Corrected copy

s/ Robert L. Carter
U.S.D.J.

ORDER OF PRELIMINARY INJUNCTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION Plaintiff, -against- MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE Defendants.	:	73 Civil Action File No. 2642 (RLC) ORDER OF PRELIMINARY INJUNCTION AGAINST DEFENDANTS WILLIAM N. LEVY, A. J. CARNO, INC., ANTHONY NADINO, MAYFLOWER SECURITIES, INC., JOSEPH CIRELLO AND THOMAS BRENNAN

Upon the complaint filed in this action on June 13, 1973, upon argument and evidence presented by the plaintiff and defendants at a hearing on October 19 and October 23,1973, upon the Opinion, Findings of Fact and Conclusions of Law of United States District Judge Robert L. Carter dated March 29, 1974, and upon all other papers and proceedings herein, and the Court having considered the matter and being duly advised, it is hereby

ORDERED that the defendants William N. Levy, ("Levy"), A. J. Carno, Inc. ("Carno"), Anthony Nadino ("Nadino"),

Mayflower Securities, Inc. ("Mayflower"), Joseph Cirello ("Cirello") and Thomas Brennan, III ("Brennan"), their agents, servants, employees, attorneys and those in active concert or participation with them, and each of them, be and hereby are preliminarily enjoined from directly and indirectly, singly and in concert, in the absence of applicable statutory exemptions:

(1) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell through the use or medium of any prospectus or otherwise or to carry or cause to be carried any securities of Management Dynamics, Inc. ("MD") or any other securities, unless and until a registration statement is filed with the Securities and Exchange Commission as to such securities;

(2) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities of MD or any other securities through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities;

(3) Carrying securities of MD or any other securities or causing them to be carried through the mails or in interstate commerce by any means or instruments of transportation for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities; and it is further

ORDERED that the defendants, Levy, Carno, Nadino, Mayflower, Cirello and Brennan, their agents, servants, employees, attorneys, and those in active concert or participation with them, and each of them, be and hereby are preliminarily enjoined from, directly and indirectly, singly and in concert:

Employing any device, scheme or artifice to defraud, engaging in any acts, practices or courses of business which operate or would operate as a fraud and deceit upon purchasers and prospective purchasers, making any untrue statements of a material fact or omitting to state any material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading in connection with the purchase, offer or sale of securities of MD or any other securities while making use of any means or instrumentality of interstate commerce or of the mails, or of any means or instrument of transportation or communication

in interstate commerce.

s/ Robert L. Carter
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
April 15, 1974

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION	:	
Plaintiff	:	73 Civil Action File No. 2642 (RIC)
-against-	:	
MANAGEMENT DYNAMICS, INC. WILLIAM N. LEVY EDWIN BARRETT CLYDE GOFF EPHRAIM HOFFMAN PETER R. WATSON GLOBAL SECURITIES, INC. ALLEN LANGENAUER DAVID LANGENAUER BERNARD OSCHERS LEE SCHNEIDER A. J. CARNO, INC. ANTHONY NADINO MAYFLOWER SECURITIES, INC. JOSEPH CIRELLO FAIRFIELD SECURITIES, INC. THOMAS F. BRENNAN, III SAMUEL D. HODGE	:	NOTICE OF APPEAL
Defendants.	:	

S I R S:

PLEASE TAKE NOTICE that defendants, A. J. Carno, Inc. and Anthony Nadino, hereby appeal to the United States Court of Appeals for the Second Circuit from the Order entered herein on April 10, 1974 granting plaintiff's motion for a preliminary injunction and denied the defendants' motion to dismiss the complaint herein.

Notice of Appeal

Dated: New York, New York
May 7, 1974

FELDSHUH & FRANK

By /s/ Martin M. Frank
A Member of the Firm
Attorneys for Carno and Nadino
144 East 44th Street
New York, New York 10017
(212) 687-8930

TO:

CLERK OF THE UNITED STATES
DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
26 Federal Plaza
New York, N.Y. 10007

BERT GUSRAE, ESQ.
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Mayflower Securities, Inc.

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444 Madison Avenue
New York, New York 10022
Attorney for defendant
Thomas Brennan

EXCERPTS OF TRANSCRIPTS OF TESTIMONY

GIVEN AT THE EVIDENTIARY HEARING

aren't you?

A Yes, sir.

Q You signed consent to a judgment of permanent injunction against you, didn't you?

A Yes, sir.

Q Were there any promises, offers or any quid pro quo that was offered to you in return for your signing that consent?

A No, sir.

Q Did I in any way indicate that by signing the consent the Commission or I would give any benefit or reward to you?

A No, sir.

MR. FRANK: If your Honor please, I object to this. I fail to see --

THE COURT: The objection is overruled.

Q Could you tell me what your present employment is, please?

A I am the president and chairman of the board of a company known as Management Dynamics, Inc.

Q Could you tell the court what your background is?

A Yes. I am a professionalbuilder and land developer.

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Q Could you tell us how long you have been doing this?

A In business for myself since 1962 --

THE COURT: Mr. Dietz, let's not get involved in irrelevancies. The issue is not what he has been doing; the issue is what he has been doing for Management Dynamics. I think that's the issue. Stick to it.

MR. DIETZ: If I might, your Honor, I'd like to qualify him as an expert in the area of land development.

THE COURT: All right. That's the critical issue in this case?

MR. DIETZ: It is one of them, your Honor. It relates to the alleged fraudulent statements and omissions to state material facts.

THE COURT: All right.

BY MR. DIETZ:

Q Mr. Barrett, about how many developments have you constructed in your career?

A Developments over -- developments of a size sufficiently large enough to be called developments, I would say at least 20.

Q During the 10 years of your career have you appeared before zoning boards?

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A Yes, sir.

Q Have you appeared before township committee meetings?

A Yes, sir.

Q Have you appeared before state boards?

A Yes, sir.

Q Have you appeared before environmental protection boards?

A Yes, sir.

Q Have you appeared before the Federal Housing Administration?

A Yes, sir.

Q And have you appeared before the Office of New Communities?

A Yes, sir.

Q Would you be able to estimate approximately what the sum total of these appearances is?

A No, but many.

Q Would it be more than 50?

A Absolutely.

Q More than 100?

A Very difficult to tell.

Q Have you ever testified before in other matters as a person who is expert in the sort of work that you

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do?

A Yes, I have been qualified as an expert in real estate and construction in the County Courts of Philadelphia and have so appeared and testified.

Q Would you tell us, please, how you became involved with Management Dynamics?

A I became involved with Management Dynamics through the offices of my accountant, Norman Weiner, and my attorney, William Levy.

Q Would you describe your conversations with Mr. Levy which preceded your association with Management Dynamics?

THE COURT: Is that the Levy who is a defendant in this case?

MR. DIETZ: Yes, that's right, your Honor.

A I am sorry. I don't really understand the question.

Q Did you have any conversations with Mr. Levy which preceded your involvement with Management Dynamics?

A Yes.

Q Would you tell us of them, please?

MR. FRANK: Can we have the time and date fixed, please, your Honor?

A I met Mr. Levy in the late fall of 1971 at the

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home of my accountant, Mr. Weiner. Mr. Levy and I engaged in conversations in which Mr. Levy was told of my desire to have my business operated through the vehicle of a public company. Mr. Levy was introduced to me as an attorney who was knowledgeable in the field of --

MR. FRANK: I object, your Honor, to what the witness is repeating as hearsay. That is not conversation.

THE COURT: I agree. What we want to know, I think the question was did you have any conversation with Mr. Levy before you became involved in Management Dynamics, and the defendants are entitled to know, one, if you can indicate it, when that conversation or conversations took place, as accurately as you can, and as precisely as you can recall, what Mr. Levy said and what you said. If you cannot recall what Mr. Levy said and what you said, if that has been exhausted, then you can state what the substance is of the conversation.

THE WITNESS: I understand, your Honor.

A What I am trying to indicate is that I knew Mr. Levy quite some time, meaning a period of at least seven or eight months, prior to becoming involved in Management Dynamics. We had many conversations on many subjects, not all of them pertaining to the matter

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at issue here.

I could in no way, unless you ask me a specific question, just tell you what the conversations that I had with Mr. Levy were.

Is there some specific question you would like me to answer?

Q Do you recall any of the specific conversations that you had with Mr.Levy regarding your coming into Management Dynamics?

A I recall conversations and I cannot pinpoint the time, they were some time from the time I met Mr. Levy until the time I actually became involved with Management Dynamics, in which we discussed various things, amongst them, No. 1, my desire to operate my business by means of the vehicle of a public company; No. 2, what rules that I had set down for such involvement based upon my own experience and knowledge. And those things were part of the conversation. Those things were, No. 1, I was concerned about taking my own company public, as it were, and I was told and still believe today that that would have been an expensive and undoable thing; No. 2, what other ways in which my company could become a public company; No. 3, under what circumstances I would be willing to enter into such an agreement or into

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such an arrangement, and so on. Specifically, I guess the one major thing that comes to my mind that we discussed was that if I were to be acquired by --

MR. HELD: Your Honor, could we get a fix on who said what to whom?

THE WITNESS: So far it is all my conversation.

MR. HELD: I just wanted to make that clear for the record.

THE COURT: He has made that clear, Mr. Held.

A My telling my conversation with Mr. Levy in which I was making clear to him what I wanted and under what circumstances I would -- and what I would be willing in effect to pay for what I wanted, which was to be involved with a company that had no prior debt of its own and in acompany that was not about to be sued in some way that would cause me to expend our capital to defend this company's past problems.

I cannot in all honesty give you any feedback as to what Mr. Levy's answers were because the kinds of things that I was discussing with him were mainly me explaining to him what I required.

Q Did he at any point say to you that he would

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be able to help you?

A Yes.

MR. HELD: Your Honor, I object. That's a leading question.

THE COURT: Objection overruled.

Q Did he indicate at any time any agreement with your objectives, as you just stated them?

MR. HELD: Your Honor, he has already answered that question. He said he could not --

THE COURT: Overruled.

A I can't really say if his answers meant that he agreed with my objectives, but certainly Mr. Levy did not indicate that there was anything wrong with my objectives.

Q Did Mr. Levy ever indicate that you might consider filing a registration statement?

A That was one of the things that we had discussed, as I believe I said a few moments ago, and the conclusions that I drew, that for the type of business that I was in and in that particular time in history, that that would be an unacceptable way for me at that time to become a public company.

Q Was this your conclusion or Mr. Levy's or both of yours?

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A It was my conclusion, based on some conversation with Mr. Levy, some conversation with my accountant as to the cost of these things, and conversations with friends of mine who are investors in the stock market, who have told me that building and real estate companies are not exactly the kind of companies in which people readily invest their money, especially small ones, like mine.

Q How did the name Management Dynamics first enter into these conversations?

A Mr. Levy told me about it.

Q What did he tell you?

MR. FRANK: Can we have a date fixed on this conversation now, your Honor?

Q Do you recall about when this conversation took place?

A Some time during the month of June, 1972, perhaps give or take 30 days either way. I can't pinpoint the date precisely.

Q Did you attempt to go public through another company before the name of Management Dynamics was --

MR. HELD: Your Honor, I object to that question as totally immaterial to Management Dynamics.

THE COURT: I don't understand that either.

MR. DIETZ: Your Honor, the witness, I think,

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if allowed to testify, would tell that he was introduced by Mr. Levy to another company and that he attempted to infuse some of his assets into this other company and that there were some problems, so Management Dynamics was a second effort to take these assets public.

MR. HELD: Your Honor, that's totally immaterial.

THE COURT: I don't think that has any bearing on this case.

MR. DIETZ: The bearing, your Honor, is that Mr. Levy now has twice attempted to do the same thing, similar acts.

MR. HELD: Your Honor, I --

THE COURT: All right, Mr. Held, I understand. There is no jury here, so there is no point in -- there is no jury here and if you want to make an objection, make it for the record, fine. Objection sustained. Move on.

BY MR.DIETZ:

Q Would you tell us of your conversations with Mr. Levy in or about June of 1972 concerning Management Dynamics, please?

MR. FRANK: If your Honor please, I don't like to interrupt the witness' testimony. Am I to

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understand that all of these conversations up to this point, there was no one present -- by that I mean none of the other defendants -- except Mr. Levy and Mr. Barrett, all these conversations?

THE COURT: If you want to ask that question you are going to have a chance to do so. Stop interrupting except on a valid objection, please.

Proceed.

BY MR. DIETZ:

Q Mr. Barrett, do you want the question read back to you?

A Would you please repeat the question.

Q The question is could you relate, please, to the court your conversation or conversations with Mr. Levy in or about June of 1972 in which the subject of Management Dynamics was first mentioned to you by Mr. Levy?

A To the best of my recollection, Mr. Levy told me about Management Dynamics. He told me that this was a company in which he had -- a company he had been involved with I think from its inception, that he knew it very well, and that in knowing it very well he knew that it fit the needs or the requirements that I had for getting involved with the company, with another company.

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Basically, those were the preliminary conversations, without getting a lot of verbiage involved.

Q Did Mr. Levy indicate to you the number of shareholders of Management Dynamics?

A I believe he did, but I don't think that was something that we discussed in the early stages of our discussions regarding Management Dynamics.

Q Did you discuss Management Dynamics with anyone else before these discussions with Mr. Levy?

A No, I had never really ever heard of Managment Dynamics until I discussed it with Mr. Levy.

Q Have you ever been in Mr. Levy's law office?

A Yes, sir.

Q On the wall in Mr. Levy's office --

MR. HELD: Your Honor, I again object. This is totally immaterial.

THE COURT: I don't understand what all this is about. What difference does it make what he has on his walls?

MR. DIETZ: Mr. Levy has indicated in an affidavit submitted to the court that he is not an expert in securities laws. I want Mr. Barrett merely to testify that on his wall there are some 20 registration --

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THE COURT: What difference does it make whether he is or isn't an expert?

MR. DIETZ: The fact that being an expert in securities laws, he should be all the more wary of the sort of activity he engaged in here.

THE COURT: The point is that if he violated the law he has violated it, Mr. Dietz. Let's move on. Let's move on to something that is within the realm of the issues that are here.

BY MR. DIETZ:

Q Mr. Barrett, could you describe what next happened after these discussions with Mr. Levy?

A After the preliminary discussions with Mr. Levy we had other meetings. During those meetings Mr. Levy told me more about Management Dynamics in terms of its debt structure, which was my primary concern. We may have discussed peripheral issues, as you indicated before, such as the number of stockholders which was -- as long as there was more than a few hundred, as far as I was concerned, that made it a public company.

We discussed the fact that it was a company that was trading over-the-counter, and most of this was not so much discussion as information gathering, Mr. Levy telling me what he knew about the company, me

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listening to him and making decision on my own as to whether or not I would get my -- allow myself to become involved with Management Dynamics.

Q Did Mr.Levy tell you whether the stock of Management Dynamics had ever been registered with the Securities and Exchange Commission?

A No, I never asked him that question.

Q Did he ever volunteer that information?

A I don't recall.

Q After these discussions what next happened concerning your involvement with Management Dynamics?

A I was sufficiently interested in Management Dynamics to enter into an agreement with the company to put in $100,000, more or less, of my assets and to receive for that, subject to stockholders' approval, 2.7 million shares, more or less, of the company's stock, that amount of shares being the amount that would give me control of the company.

Q On or about August 15th do you know how many employees Management Dynamics had?

THE COURT: August 15th when?

MR. DIETZ: I am sorry,your Honor. August 15, 1972.

Q Do you know how many employees Management Dynamics

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had?

A I assume none.

Q Do you know if it had any income then?

A I also assume none.

THE COURT: This was before you took over?

THE WITNESS: Yes, sir.

Q Do you know whether it was realizing any profits at that time?

A I again assume none.

MR. HELD: Your Honor, I object. The answer is "I assume" rather than factual statements as to whether there were or were not. The assumption is a conclusion from the witness; he assumes this based upon --

THE COURT: The point is I gather that the essence of the answer is he doesn't know.

Q Did you ever ask Mr. Levy any of these questions?

A Those were the kinds of questions that were really not necessary, as far as I was concerned. The company's activities were presented to me at that time, they had no activities at that moment, and therefore I could assume they had no employees and no income, et cetera, et cetera. That is the basis of my assumption.

THE COURT: I don't believe that the issue here is that Mr. Barrett is an innocent young man being put into control of this business by Mr. Levy. You have established that Mr. Levy was the prime architect in it, and Mr. Barrett only took over at whatever point he took over the company, and I assume that if he can buy a controlling interest in a company for $100,000, that the assumption seems to me that at that point that he was the one that was involved. Let's move on.

MR. DIETZ: Your Honor, the point that I am trying to establish is we will prove an over-the-counter market for the securities of Management Dynamics between August 15th and the time that Mr. Barrett's assets went into the company, and that during this time the company really was nothing besides a shell.

THE COURT: I don't know. Can you establish that with this witness? This witness doesn't really know, does he?

MR. DIETZ: If I might ask him one more question, your Honor --

Q Did Mr. Levy ever describe the condition of Management Dynamics to you on or about the 15th of August,

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1972?

A Yes.

Q What was that description?

A Mr. Levy described the company as a company shose business activities were nil, whose assets were confined to a small one-acre tract of land in Canada, whose debts amounted to approximately 45 or 50 thousand dollars. And you say on or about, I am going back before the middle of August, these are involved in our preliminary discussions, and that its former activities were in the area of consulting in management matters with other businesses and that it had some activity in the real estate field, as witnessed by the fact that in fact it owned a piece of land, et cetera. Other than that, there wasn't very much of a company to describe. It was a company whose business activities were reduced to zero by its former management.

Q Did you seek out information about Managment Dynamics from any other source than Mr. Levy?

A No.

Q Did there come a time when there was a shareholders meeting that ratified the agreement that you had entered into?

MR. FRANK: Excuse me. I object, your Honor. First, there is a fact that has not been put

before this court. A shareholders agreement you entered into. There has been no prior reference to an agreement.

THE COURT: There has. The agreement was that he would put $100,000 into the company and get sufficient stock to get control. All right. If you are going to make objections, gentlemen, listen, listen to the testimony.

MR. FRANK: Your Honor, I assume that the agreement that the witness referred to what is memorialized by some form of writing.

THE COURT: Proceed. You can ask that when you get up for cross examination?

Q Was there a shareholders meeting that followed your discussions with Mr. Levy?

A There was a shareholders meeting held on September 6, 1972, and the purpose of that meeting was to ratify the agreement between myself and the company.

Q Was that agreement ratified?

A Yes, it was.

Q At the same time was the number of shares authorized to be issued by the company increased?

A I believe it was, yes.

Q Do you remember the number that it was

increased to?

A I believe 8 million.

Q What was the purpose of the increase in the number of authorized shares?

A To the best of my knowledge, the purpose for increasing the authorized shares was as follows: In order for me to get control of the company, I was given 2.7 million shares of stock. There was approximately 1.3 million shares already outstanding making a total more or less of 4 million shares. The additional 4 million shares of authorization was done at that time so that in the event, as I understand it, in the event there was a possibility to make future accusations of other companies or other assets with the company's stock, that that stock would be available andnot require another shareholders meeting in order to get such an approval.

Q Do you recall who suggested the increase in the number of authorized shares?

A Not specifically, no. I believe that almost all the activities we did within the company were done with consultation with the board of directors and our counsel, Mr. Levy.

Q Did you suggest that the number of shares be increased?

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A I don't recall. I think it was done by the group of people who were involved in the management of the company.

Q Do you recall who first suggested that the number of shares be increased?

A Mr. Dietz, I do not, unfortunately.

Your Honor, may I just make a one-sentence explanation? The increase in number of shares to 8 million was not a major issue, it was not something that anybody had dwelt upon at any length. It was something that was done as a part of the activity of having me come into the company and not as some specific act that was dwelt upon at great length.

Q Are you familiar with the name Peter Watson?

A Yes.

Q When did you first hear Mr. Watson's name?

A October, 1972.

Q In what circumstances did you hear his name?

A His name was first mentioned to me by Mr. Levy.

Q Could you tell me what Mr. Levy said at that time?

A Yes. Mr. Levy said that Mr. Watson was an agent for investors, for investors. He represented

people who were investing their money in small companies, in restricted stock of small companies. Basically, that's what I know and know now about Mr. Watson and what I knew then.

Q Could you confine your answers, please, to what occurred at the time that we are referring to, which would be October, 1972?

Did Mr. Levy indicate that Mr. Watson wanted to have any involvement with your company?

A Yes. Mr. Levy indicated that Mr.Watson, for his clients, would be able to make a substantial private placement of our unregistered stock.

Q How many shares was this going to be?

A I believe the amount was 560,000.

Q Were there any further discussions concerning this private placement?

A Yes.

Q Would you tell the court about them,please?

A We had a board meeting to authorize the issuance of the shares to Mr. Watson. We were told that one of the prerequisites of Mr. Watson's --

MR.HELD: Your Honor, can we establish who these discussions were with?

THE COURT: Allright.

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BY MR. DIETZ:

Q Did Mr. Goff participate in these discussions?

A Yes.

Q Did Mr.Hoffman participate --

A Excuse me. Mr. Goff was -- yes, the answer is yes.

Q Either in person or by telephone?

A Yes, Mr. Goff was kept informed and in some of the meetings he was present.

Q If you could say there was a moving force behind these discussions, who would it be?

MR. HELD: I object, your Honor.

A May I answer the first question? I don't think I have answered it. The answer is these discussions were held with the board of directors of Management Dynamics, all of the board of directors.

Q Who first suggested this private placement?

A Mr. Levy.

Q Who informed you of the conditions of this private placement?

A Mr. Levy.

Q What were those conditions going to be?

A We would issue 560,000 shares of our

restricted stock, and that the major condition was that the stock be issued without a legend on it, have no printing on it to say that it was restricted stock.

Q Do you mean by restricted stock stock that was not registered with the Securities and Exchange Commission.

A I don't quite know what that means. My understanding of what restricted stock was and still is, for that matter, that is the stock that cannot be traded.

Q Did the stock that you received when you came in to Management Dynamics carry a legend on it that it was restricted?

A Yes.

Q Did you raise any questions concerning why Mr. Watson's stock didn't have to bear a similar legend?

A Yes.

Q Whom did you raise these objections with?

A I don't know if they were objections. There were questions asked and we raised them with Mr.Levy.

Q What did Mr. Levy say?

A Mr. Levy said that legends were put on stock for the safety of the company and that they were not -- and that it was better to have legends on the stock, but it was not a legal requirement since Mr.Watson's re-

quirement was that the stock didn't have a legend on it, so long as he signed an investment letter which said that he recognized the stock was restricted, that that would be sufficient in terms of whether or not it was a legal act. However, he did tell us that we were taking some risk and that risk was described as a possible liability on the part of the company if Mr. Watson acted in an illegal manner. That is that he took the stock and did not represent it as to be restricted stock and injured some third party.

Q Was there some way that you protected yourself from Mr. Watson obtaining possession of this stock and using it in such illegal manner?

A We thought that we had.

Q What was the procedure that you used?

A There were several things, and some of them at Mr. Levy's -- with Mr. Levy's advice, that made sense. One was not to issue the stock in certificates smaller than 5000. The information was that the stock was not to be given to Mr. Watson directly, but Mr. Levy was to have it in his possession until such time as Mr. Watson actually identified his investors and put up the money into an escrow account and gave us time to check out the people who were investing, and, as a matter of fact, I

believe -- and I cannot remember precisely, but it is my belief that the stock that we gave to Mr. Watson was not to be the stock that was ultimately to be put into the hands of the investors, but that stock was to be put in their name and therefore it would be required to go back to the transfer agent, be cancelled and new certificates issued. We felt if we gave the stock to our counsel and a board member to physically keep in his hands --

Q Excuse me. That would be Mr. Levy?

A Yes, to handle the transaction between the company and Mr. Watson and his principals, that we would have sufficient protection in that the stock would not leave -- would not be out of our control really at any time until, (a), we had a chance to identify the ultimate investor and, (b), that the company received payment for the stock.

Q Could you describe the events that happened concerning this 560,000 shares?

A Yes. Some time in the middle of October the stock was issued on the authorization of the board, and it was issued in the manner in which the demand was made by Mr. Watson. Mr. Levy took physical possession of the stock and personally flew down to Florida, I believe Ft.

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Lauderdale or some other smaller town in Florida - -

Q Could Mr. Levy have flown to Tampa?

A Tampa, yes. Excuse me. I stand corrected. I think it was Tampa. Mr. Levy's instructions were not to let the stock out of his hands until he had seen to it that these steps were taken. Do you just want me to continue in the form of a narrative?

Q Yes, would you, please?

A About three or four days after Mr. Levy left he called, I think we spoke to him the day after, he was locating Mr. Watson, they were having meetings and discussions, and apparently there were some small problems as to what would be done physically with the certificates. I believe Mr. Watson wanted them in his possession so he could show his clients without identifying them. There was a lot of conversation back and forth. We didn't, however, relieve or rescind our instruction not to let the stock out of his hands. These discussions on the telephone took place once a day for three or four days from the time of Mr. Levy's departure.

On the third or fourth day after he left Mr. Levy called and informed us that he was coming back. We asked him, "Do you have the money?" and "Is every-

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thing okay?" and Mr. Levy said, "No."

"Do you have the stock?"

He said, "No, I gave it to Mr. Watson to be put in escrow because there was some problem in identifying or getting together his principals," whereupon Mr. Levy returned to Philadelphia without the stock.

Q Was there any discussion with Mr. Levy concerning why the stock had to be issued at all?

A Yes.

Q Could you tell us about that, please?

A Mr. Levy informed us that Mr. Watson's requirement that the stock be issued was so that Mr. Watson could prove to his principals that he in fact was in contact with the company and could consummate a purchase of our stock.

Q Was there any discussion concerning why the stock wasn't issued in one certificate of 560,000 shares?

A No, there wasn't any discussion about it, except that that was what Mr. Watson's demand was. In fact, if I remember correctly, I think Mr. Watson wanted the stock in smaller amounts and Mr. Levy insisted that there be no smaller amount than 5000 shares, a certifi-

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cate of 5000 shares.

Q These 560,000 shares were issued in 5000 share units?

A Yes.

Q Did Mr. Levy authorize this entire -- did Mr. Levy review this entire procedure of the issuance of stock to Watson?

A I am afraid I don't follow you.

Q Did you as president of the company rely on Mr. Levy's expertise as legal adviser to the company in doing this, what you just described to the court?

A Yes. But I must say that this was done by the board of directors, and Mr. Levy was a board member, so that we did this action, we had discussions back and forth between all the board members as to how it would be handled and Mr. Levy was authorized by the board to make thenecessary arrangement to complete this private placement.

Q Did Mr. Levy ever indicate that there was anything legally wrong with doing what you did?

A No.

Q Was 560,000 shares the total number of shares that were given to Mr. Watson for the private placement?

A No.

Q Were there subsequently shares that were added to these 560,000?

A Yes.

Q Could you describe how that happened?

A Some time after Mr. Levy's return he informed us that he was contacted by Mr. Watson who I believe for reasons that he had increased the number or changed the persons to whom -- from whom this investment was to be received, that he wanted the amount of shares increased an additional 400,000 shares.

Q Did the board authorize this increase?

A Yes.

Q How were the additional 400,000 shares prepared?

A In the same way the original 560,000.

Q Did these shares carry any restricted legend?

A No, they were exactly the same as the original.

Q Did Mr. Levy participate in the discussions that led to the issuance of these 400,000 shares?

A Yes. There wasn't any need to go through the same discussion as to whether or not it was legal or not, and so on and so forth. We were already relying on that judgment. This was only a matter of whether or not we

should issue another 400,000 shares under the exact same circumstances of the first 560,000, and we did so.

Q Was Mr. Levy dispatched again to see Mr. Watson in person?

A No, Mr. Levy wasn't dispatched. We didn't really send him. He is not an errand boy. But we let him control the transaction, yes. Mr. Levy was authorized by us to cause the shares to be issued and to make sure that the delivery was done and to protect the company and the board in the way that he was instructed the first time.

Q Do you remember when these additional 400,000 shares were sent to Watson?

A The end of October, perhaps during the first week of November. I couldn't tell you precisely what date.

Q What transpired after that time?

A We were assured that Mr. Watson would conclude this transaction within a week or 10 days from the time he received the additional 400,000 shares of stock.

Q Did you speak with Mr. Watson?

A Once.

Q What was the source of this information that you are relating to us?

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A All of our contact with Mr. Watson initially, with the exception -- in fact all the time with the exception of one time I spoke to him was through Mr. Levy.

Q To your knowledge, had any of the other board members ever spoken with Watson?

A I don't really know. I don't think so, but I just don't know.

Q Would you continue, please?

A Well, we waited the 10-day period or the one-week period, which took us somewhere into the middle of November, and Mr. Watson was not heard from. Mr. Levy informed us he hadn't heard from him. Then he told us some time in that period that he had a telephone conversation and Mr. Watson had a problem of one kind or another, and finally after the period of time had expired for this concluded, I found out through Mr. Levy that Mr. Watson was in a hotel in Dallas, Texas on some business or other of his own, and I am not sure whether I called him in response to a call from him because we were waiting to hear from him to find out what was the ultimate disposition of this case -- I am sorry; this transaction, and not hearing from him I found out that he was in a hotel in Dallas and placed a call to him. My conversation with

him was briefly as follows: "Mr. Watson, your time is up. We want either the money or the stock."

Mr. Watson thereby informed me that he was having some difficulty in terms of getting together with his principals and he needed a little bitmore time. It was my judgment that since we had already waited 10 days and since the stakes were rather high, the benefits to the company would have been very great, it wouldn't hurt us to wait another few days.

We gave Mr. Watson another week. The week went by. We didn't hear from Mr. Watson. That took us close to the end of November, and the action I took at that time was, No. 1, to cancel the certificates; No. 2, to send a letter to the transfer agent over my signature which said that no stock was to be issued in Management Dynamics stock without a legend on it and without a written authorization from the company with the corporate seal, signed by the president and the secretary; and, No. 3, Mr. Levy reported the stock, I believe to the FBI in Camden, as stolen; and, No. 4, I think Mr. Levy asked the SEC -- I don't quite know how it came about, but we allowed him to handle that -- to suspend the trading of the company's stock until such time as we recovered the stock, which we ultimately did. We got all the shares

back intact.

Q When did you get all the shares back?

A From the end of November through early in January. Most of the shares, the great bulk of them, came back very quickly. They were sent from Mr. Watson's office in -- Mr. Watson got them back. How, I don't know exactly, but I know they were given back, and then there were 50,000 shares we did not get back. I suspected that Mr. Watson was a little peaked at us for cancelling his deal. In fact, I believe he had called Mr. Levy and told him why did we cancel the ahres, he was just about to conclude the deal, and so on and so forth, and I think he was just trying to embarrass us. But eventually, within four to five or six weeks of the time that we told him the deal was over and cancelled, the certificates, every certificate was returned to the company in fact.

Q Do you know who Mr. Watson offered these shares to?

A I don't know who Mr. Watson's principals were. They were never identified to me.

THE COURT: When you say the deal was cancelled, are you talking about both issues, 960,000 shares, or just 400,000 shares?

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THE WITNESS: No, your Honor, the entire transaction. 960,000 shares were the entire transaction, it became one, and then we got all the stock back.

Q You say there was a period of some four to six weeks after the transaction was cancelled until the time that the certificates were in the physical possession of Management Dynamics again?

A Yes. The great bulk of them were returned before the end of the year, in the first couple of weeks, and the remaining 50,000 returned after the end of the year. I should like to point out that there is the Christmas-New Year's holiday, people are traveling, but we did get them back. There was never any doubt in any mind that we would get them back.

Q I hand you what has been marked as Plaintiff's Exhibit 1 for identification.

THE COURT: Isn't this attached to the complaint?

MR. DIETZ: Yes, that's right, your Honor.

Q Mr. Barrett, do you recognize what is marked for identification as Plaintiff's Exhibit 1?

A Yes, I do.

Q Would you describe it, please?

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refer to the financial statement on the fifth page. There is an indication of assets that you contributed to Managment Dynamics, is there not?

A Yes.

Q On that page there are indicated two options, are there not?

A Yes.

Q The option to acquire land in Bass River Township: Can you tell us whether that was conditional upon any events before the option could be exercised, and also would you indicate what steps would be necessary to develop this property if the option were acquired or were exercised?

A Mr. Dietz, all options on land are conditioned upon something or other or they wouldn't be options.

Q Do you recall what the conditions on the Bass River option were?

A Yes.

Q Would you tell us, please?

A We had a time period of, I believe, two years within which we had to obtain governmental approvals, such as zoning, Environmental Protection Agency approval to construct a sewer facility, local, state, federal, the

option was conditioned upon all governmental approvals for the project contemplated on the fact, without going into --

Q Was there any guarantee that you would get governmental approval?

A Mr. Dietz, there is never a guarantee in our business.

Q So is it possible that the development of the Bass River property might have been not possible?

MR. FRANK: Objection as to form, your Honor. We are not concerned with possibilities.

THE COURT: Mr. Dietz, this hearing now is not before a jury. Just make some assumption that I have a reasonable amount of intelligence.

MR. DIETZ: I will move along, your Honor.

BY MR. DIETZ:

Q Referring to the option to acquire land in Harleysville, Lower Salford Township, Pennsylvania, was that option conditional upon any facts or events?

A Yes.

Q Do you remember what they were?

A Yes. The option was contingent upon the zoning in that area being changed from agricultural to high density residential. High density being defined

by virtue of this, that this information had been received. I think he is perfectly within his rights. Objection overruled.

BY MR. DIETZ:

Q Would you indicate the steps that would have to be satisfied to develop the Harleysville property?

A The Harleysville proper required a zoning change. It did not require the construction of a sewer plant, there was one adjacent to the site; it did not require the construction of any water facilities, they were all -- public water was already available, in fact, on the site; it did not require the construction of any public roads, the tract was surrounded by and crossed over by public roads --

MR. HELD: Your Honor, if I might I would like to object to this entire line. Every comment regarding the options, what is necessary and what is not necessary, is immaterial. All that is listed in the balance sheet or the pro forma balance sheet, in a footnote, I might add, is that there are options that exist. Nothing is said that they are going to be built upon, there are no guarantees they will come through or anything else like that. It is simply mentioned in a footnote. There has been no basis for materiality of these options

Q Mr. Barrett, if you take a look at Plaintiff's Exhibit 2 --

THE COURT: Before you go on, Mr. Barrett, who received Plaintiff's Exhibit 1?

THE WITNESS: I didn't mail that out, I didn't have anything to do with that before I came to the company, but I subsequently learned that these mailings were done by taking the mailing tapes from the transfer agents of all the listed stockholders and sealing them on the face of the envelope and sending them out. That is who received both the first and the second mailings. In fact, the second exhibit, your Honor, this was sent out as a complete mailing, the three pages went out together.

THE COURT: But a statement has been made that it went to persons other than the stockholders.

THE WITNESS: In the sense that it did not go to persons other than stockholders, only in the sense that there are on the stockholders list brokerage houses who represented the clients and therefore they would get this information as a stockholder for the company.

Q Mr. Barrett, from time to time did you receive requests for information about Management Dynamics?

A Yes.

Q Did you send any written material in response

or the news release?

MR. DIETZ: In the letter, your Honor.

THE COURT: Allright.

BY MR. DIETZ:

Q Did you complete all the processing and settle on the financing on or about February 15th of this year?

A No, we did not.

Q What happened?

A There was a change in the market conditions at that time. We did not complete the necessary processing, and we made a business judgment to delay on the moving ahead of this project and in fact decided to divest ourselves of it and devote more time to other activities.

Q What was the processing that had to be completed? Would you describe that in some detail?

A There was no processing that had to be completed, Mr. Dietz. The only processing at that point would have been had we decided to go ahead and build it, we would have had to go in and conclude our mortgage arrangement for construction loans and physically begin construction. I think we had the zoning permit, we had the sewer, we had the water, we were ready in fact to

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begin construction from a legal point of view in rerms of getting government approval.

We had had some processing done through FHA. As a matter of fact, one of the reasons for the delay was that there was a rather large scandal in the Federal Housing Authority in Philadelphia, and they stopped processing all applications, which gave us considerable delay, and then we began to receive very nice offers for the purchase of this land from other developers, far in excess of what we paid for the land, and decided, since the FHA was in such a mess and kept dragging this thing and dragging and dragging it, we had by then at this time acquired the option on Tabernacle, which was new, in the month of October, which is what this news release refers to -- since we could make a profit selling thel land, why not sell it andbe done with all this governmental processing.

That, by the way, FHA processing, is for mortgage, not for permission to build but to get federal insurance on a mortgage. We took up and began negotiations with several of the people that offered to buy the land and in fact concluded agreements on it, not once, but twice.

Q At the time this letter was written, were there

any definite assurances that all processing and financing would be completed and settled by February 15, 1973?

A No.

Q Then you mention in the next paragraph the apartment in Philadelphia.

A Mr. Dietz, I said I expected to complete. I didn't say I will compelte. It doesn't say we are going to have it and I don't think anybody that knows anything about housing knows that nothing happens on the day it is supposed to anyway.

Q Was the Lombard Street apartments completed as scheduled for the spring of 1973?

A No. They are just complete now. We are three months behind schedule.

Q At the time this letter was written, could you have predicted with certainty that the completion would have been finished by the spring of '73?

A Mr. Dietz, in the interest of saving a lot of time, I will concede that in the real estate building construction business, land development, that there is no certainty of anything.

THE COURT: The issue I think is, if I am wrong you correct me, I agree with Mr. Barrett, there can be no liability by virtue of a delay in regard to a letter, if it is not completed, particularly in the hous-

ing field. The question, it seems to me that is pertinent, is whether or not at the time this letter was put out, this information, they had a reasonable expectation that it was true or they believed that it was true. If the facts that he put out that he knew were not actually accurate, that's something else. But I don't see there we are getting anywhere because of the fact that he is delayed or even in regard to this third paragraph.

If after this letter came out the board decided that they were going to change their mind and shift gears or do something, I don't think that that is actionable. The issue is whether, when it came out, this is what the plans were for the company to do.

MR. DIETZ: If I might, your Honor, the line of questions has only been to indicate that there existed at the time this letter of October 25th was sent to the public several areas of problems and possible complications which would have or might have prevented the fulfillment of the company's expectations, and that the Commission alleges that the recipients of this letter were not necessarily sophisticated in the real estate industry, and that they should have been advised of these negatives. That's the basis of our complaint, the

omissions, your Honor.

THE COURT: You can proceed with the last one, the last paragraph on the page -- I understand from Mr. Barrett that that project has been completed, even though there is a few months' delay. I understand -- I am not clear, quite frankly, on the preceding paragraph, if they decided to abandon it, and he indicated they decided to sell it, I don't know whether that was done at the time the letter was issued or afterwards. Quite frankly, I don't see anything actionable in regard to the public, particularly in the real estate field. You just have to look at that by virtue of anything. Projections are made, you know that there are delays. I don't know what member of the public isn't sufficiently sophisticated to know that in land development there are going to be delays.

The question is, it seems to me, did he know it before. This third paragraph is put out, whoever received it, at that point a decision had been made to sell and the public wasn't advised, I would think that is an issue to complain about.

MR. DIETZ: See, your Honor, throughout the communciations that this company had with the public, there was no indication of any of the obstacles that stood in

the way of the success of the company.

THE COURT: I know, but the point is, Mr. Dietz, you are not really getting to me on these two. I understand the point in regard to Exhibit No. 1 with respect to the option, and I think you make a valid point there. The line of questioning that you just asked Mr. Barrett doesn't move me at all. I don't see where thus far this letter could possibly be misleading the public. There is no way that any land developer who is as sincere and honest as the day is and puts things out who is going to be able to say that "I have a project that's going to be completed by February of 1974" and have any assurance that it is going to be completed by that time. There will be strikes, there will be shortages, there will be all kinds of interferences, and you certainly can't on that basis indicate that there is something actionable. I think you are wasting time pursuing it, unless you are going to go to some other line, that when it was put out Mr. Barrett and the company knew that what they said was in fact false.

MR. DIETZ: If I might, your Honor, there are three options referred to in Plaintiff's Exhibit 2. Two of them on page 2 of the letter and one contained in the press release.

Q Mr. Barrett, you refer here to the option in Bass River Township. Is that the option that was referred to in Plaintiff's Exhibit 1?

A Yes.

Q The option to acquire 77 acres of ground on the Lansdale acreage, was that option conditioned on any facts or other items that had to be completed?

A That is the same option called Harleysville in Exhibit 1.

THE COURT: There is a third option.

THE WITNESS: The third option, we acquired subsequently.

THE COURT: Seven hundred acres in Burlington --

THE WITNESS: That is the option referred to in this release which was acquired after I took over the company, and this was a new option for a new purpose for a new project, and one on which we are still working. In fact, we just got zonings for it.

BY MR.DIETZ:

Q What were the conditions for this option on October 13th when the news release was dated?

A The option was subject to local community's passage of an ordinance permitting the construction of a

retirement community as well as the State of New Jersey's permission to erect a sewage treatment plant.

Q Is the option conditioned upon any other state or governmental body's approving the construction?

A No.

Q Was this to be financed by the federal government?

A No.

Q Was the successful development of the option property dependent upon Management Dynamics obtaining financing from outside the company?

A Oh, yes.

Q Was there any assurance that the company could get this financing?

A The financing for this project would be in excess of $25 million, and I would have to answer no, there is no assurance we could raise that $25 million. And, by the way, I read that all from the news repease. Every answer to the last twoque stions I read from the news release.

Q Was there any assurance that the company would be able to raise the purchase price of the option which is indicated on the release in excess of $1 million?

A Mr. Dietz, I conceded before, there is every

possibility that we could never achieve anything we ever wanted to do with our business.

Q Who is the moving force at Management Dynamics as far as the operational end of the business is concerned?

A I am.

MR. GUSRAE: Objection.

THE COURT: What's that objection about?

MR. GUSRAE: I object to the term moving force. I don't know what that means.

THE COURT: He answered it.

Q Was anyone else in charge of the operations of the company besides yourself?

A We have management employees, construction superintendent, vice president in charge of construction. In the Dynamics business at the moment, I am the chief operating officer and cook and bottlewasher, if you will. We do have employees who we hired to handle certain important functions, as they became necessary to be handled.

Q If you ever became incapacitated what effect would that have on the future of Management Dynamics?

A I would say that it would have some problems.

Q During your association with Management Dynamics how many full-time employees has the company

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had?

A Several girls in the office, some help in the field, but very -- I think we have two girls right now, we had at one time, but we have been pulling in our horns a little bit because market conditions are rotten. We have two girls in the office and myself as full-time employees. We have an attorney working on a fee basis handling the zoning ordinances on the Tabernacle project, which is a retirement community. He has worked off and on over the summer and been paid for his services.

Q Has the company had any income since you have become associated with it in September?

A No.

Q Has it had any profits?

A It is not possible to have profits without income. At least that I know of.

Q Have you been paid a salary?

A No.

MR.HELD: Your Honor, is this relevant to the problem at hand, to the issues at hand?

MR. DIETZ: Yes, Mr. Held, because these facts concerning the company were not disclosed to the public. I think if the public had known what the true condition ofthis company were, the price of the stock,which reached

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$6, the public would have had an opportunity to exercise a reasoned judgment whether or not to buy it.

Also, this evidence is coming in against the marketmakers who maintained a market of $6 for the stock, for which we charge there is no reasonable basis.

MR. HELD: Your Yonor, we are discussing an issue regarding press releases, regarding news letters, a number of other things, based upon allegations that have been made in the complaint and moving papers. These allegations have nothing whatsoever to do with whether or not Mr. Barrett took a salary or didn't take a salary. As a matter of fact, one of the press releases, the first one, the news letter --

THE COURT: I understand that. He doesn't have to confine his inquiry to the press releases, he can move on to something else. He is certainly entitled to -- and it is certainly relevant to show what the status of the company was, and therefore whether it did or did not have income. Objection overruled.

BY MR. DIETZ:

Q Were the employees paid a salary?

A Oh, yes.

Q What was the source of the funds to pay their salary?

A Some of the funds came into the company by means of a private placement that was made with, I believe it was, seven people.

Q Private placement of stock, that is?

A Yes, of restricted stock, with the proper legends, with the proper investment letters, and they were local people, friends of board members who each invested about $5000 so there was some $35,000 in income but not earnings, I make that distinction, and the rest of the money has come over this past year now, it has come out of my pocket.

Q Does Management Dynamics have its own office ordoes it share an office?

A It shares an office with -- it uses my office, which is in fact its office. It has its own telephone line, and we make as clear a distinction between my activities in the Management Dynamics and my activities in Barrett Development Corporation, which is my principal business as a builder and developer, as is humanly possible. In fact, we bend over backwards not to charge the company for more than its fair share of the expenses, both in employees' time and in some other expenses.

Q Is Management Dynamics charged for the rent of this office?

A A portion of it, yes.

Q How does Management Dynamics pay that?

A The same way it is paying all its other bills.

Q How is that, sir?

A I am funding the company, where necessary. Whenever there is an expenditure to be made and the company doesn't have the money, I put it up.

Q How many shares of the stock were outstanding in December, not counting Watson's stock?

A Well, even counting Watson's stock, because Watson's stock was cancelled in December so it wasn't outstanding anyway -- by outstanding you mean the total number of shares issued to various people?

Q Yes.

A Somewhere in excess of 4 million.

Q Do you know what the approximate price of your company's stock was in the week before it was suspended?

A No.

Q Would $6 sound accurate to you?

A No. Let me amend that to "I don't know," is what I meant. You know, that's meaningless to me.

Q Would you say that a $24 million value of your company would be an appropriate value, multiplying --

MR.FRANK: Objection, your Honor.

Q You say $24 million would be an appropriate value to assign to your company?

A I have no idea where you get a number like that. No, of course not.

MR. DIETZ: We have no further questions, your Honor.

THE COURT: Gentlemen, before you proceed, I am going to allow all of counsel for the various parties who want to examine Mr. Barrett to question him, but a question asked of one in a line of course would be considered as favorable or whatever to all. I will not expect any repetition of any areas in question, so that I think what you better do, we will take a 10-minute recess, and you can organize yourselves in terms of what the questions are that are going to be asked and who is going to ask them.

(Recess.)

MR. SMITH: Your Honor, my name is Robert E. Smith. I am representing defendant Mayflower Securities Co., Inc. Before cross examination is commenced, your Honor, I want to move on behalf of Mayflower to strike in its entirety the testimony of this witness on the ground that there is no connection with Mayflower at all and that it is certainly not binding on Mayflower.

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THE COURT: Obviously it is not going to be stricken, Mr. Smith.

MR. SMITH: I want my position to be clear for the record, your Honor. For that reason I have not jumped up and down on any particular question asked of this witness. Our objection is to the whole line of the questioning because our position is that none of the testimony is relevant to my testimony.

THE COURT: Who is proceeding first?

MR. GUSRAE: Your Honor, we are counsel for Mr. Levy.

THE COURT: Mr. Frank, are you representing Carno and Brennan?

MR. FRANK: Yes, your Honor.

THE COURT: Mr. Jaffe representing both --

MR. FRANK: Mr. Jaffe represents Mr. Brennan. I represent Carno and Nadino. Mr. Jaffe represents --

THE COURT: You are sitting in for him today. All right.

CROSS EXAMINATION

BY MR. GUSRAE:

Q Mr. Barrett, with respect to those 960,000 shares of Management Dynamics stock, as I understand your testimony, those shares were never sold?

A That's correct.

Q They have been cancelled on the books of Management Dynamics?

A Yes.

Q Do you know where those shares are today?

A The last time I physically saw the shares, they were in the possession of our attorney.

MR. DIETZ: Your Honor, I will state that I believe that I have all the shares in my office.

MR. GUSRAE: I would like those shares produced here. We would like to introduce them in evidence.

MR. DIETZ: That's the first request that's been made, and I will be glad to bring them after the luncheon recess, your Honor.

THE COURT: Mr. Gusrae, I am not going -- there is hardly any reason for this record to be burdened with 960,000 shares of stock. I think the more appropriate place -- you should get a stipulation, you may get a copy of one of the certificates for purposes of having that introduced and get a stipulation on the record as regards where the others are, and so forth, and how many.

MR. GUSRAE: That's fine with me. We will

MR. DIETZ: I object, your Honor. The witness isn't testifying as a lawyer as to what might be a material omission.

THE COURT: Reframe the question.

BY MR. FRANK:

Q Mr. Barrett, did you find any material misstatements in that Exhibit 1?

MR. DIETZ: Your Honor --

THE COURT: Same objection. Reframe the question. If you want to ask him if he advised him of any facts that were not in the statement --

Q Did you discuss Exhibit 1 with Mr. Levy at any time?

A That's a difficult question to answer. My answer would be no, I did not, but information obtained from me by the company, Management Dynamics, which was contained in the written agreement that was dated in July some time, I believe, was used with my consent to prepare the pro forma statements.

Q Who supplied any other material besides yourself?

A Well, from reading the letter I see that the accounting firm of Glickman, Berkowitz, Levinson & Weiner supplied it. They were, as I understand it, the ac-

countants for the company for quite some time previous to my involvement.

Q With reference to Exhibit 2, did you supply the information for that?

A Exhibit 2 is my writing.

Q It is your writing?

A Yes.

Q You read it before it was mailed out?

A Certainly. Everything contained therein was true and correct, to your knowledge at the time?

A To the best of my knowledge, yes.

Q Prior to your mailing out Exhibit 2, did you discuss it with any of the other defendants except Mr. Levy?

A Yes.

Q Which ones?

A Mr. Goff and Mr. Hoffman, who were board members.

Q Outside the Dynamics family, to wit, its officers and directors and Mr. Levy, did you discuss it with anyone else?

A No.

Q You knew at the time Management Dynamics received some of your property that it was a trading stock, did

MR. GUSRAE: I think it is important in view of his testimony. Perhaps there is a reason.

THE COURT: I am sorry. I have sustained the objection. Anything further for Mr. Barrett?

MR. DIETZ: Some very short questions, your Honor.

REDIRECT EXAMINATION

BY MR. DIETZ:

Q Mr. Barrett, was Plaintiff's Exhibit 2 reviewed by Mr. Levy before it was mailed out?

A Yes.

Q Did you submit to Mr. Levy any notes or preliminary drafts of Plaintiff's Exhibit 2?

A If you mean by "submit" did I send it over to him--

Q Yes, that's right.

A I don't know that I physically sent him the notes, but we had conversations both on the telephone and in person about the text of the letter.

Q Did he suggest changes from your original text?

A Yes.

Q Plaintiff's Exhibit 2 as it appears, does it reflect Mr. Levy's changes?

A Yes.

Q In response to the question by Mr. Gusrae, who represents Mr. Levy, you said that the shares that Watson had were never sold. Can you be sure of that?

A Yes.

Q Can you tellme how you are sure of that?

A Because we have all the shares.

Q Is it possible that those shares may have been sold without notice being received by the company or the transfer agent?

MR. GUSRAE: I object, your Honor. He is trying to impeach his own witness.

MR. DIETZ: No, I am not. That is your question.

MR. GUSRAE: He just gave you an answer.

MR. DIETZ: Your Honor, if I might, the witness has stated on cross --

THE COURT: I heard what he stated. The witness stated that he repossessed the stock. You now asked him how could he be sure they weren't sold.

All right, I will let him answer.

A Well, I base my answer on the first part, which is, No. 1, the company has all the stock back; No. 2, there was never any request to transfer that stock to any

purchaser, to my knowledge. If there is any way to sell stock in some other way without somebody putting up money, not wanting the stock for themselves, I can't imagine. It seems to me if you buy something you want it. If you want it it has to be in your name. For it to be in your name it has to gothrough the transfer agent, and none of that ever happened.

Q If this stock were sold with -- Mr. Barrett, do you know what a stock power is?

A No, but I can guess by the name that it means that somebody gives a piece of paper that says you own something over here.

Q Is it possible that Mr. Watson may have sold the stock with a stock power attached and that the pur chaser of the stock just held it and didn't send it in for transfer?

MR. GUSRAE: I object to that, your Honor, about what is possible. It is speculative, argumentative. We have had the answers.

THE COURT: The point, it seems to me, is that -- I am not sure that Mr. Barrett is the person who can answer that kind of question. You need somebody who knows -- if you want to get that before me, get somebody who can relate it. Mr. Barrett is not the person

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to do it.

MR. DIETZ: Your Honor, if I may, I agree with your suggestion that Mr. Barrett is not the best witness to get at this sort of evidence, and I am going to refrain from asking further questions, but there is a question and answer that's been put to Mr. Barrett and Mr. Barrett has stated that Mr. Watson never sold the shares. That statement I believe is conclusionary. Mr. Barrett has indicated that there was no transfer; Mr. Barrett has indicated that the company has all the stock back; Mr. Barrett has indicated that the company never got a request to transfer the stock; but unless he can state from his own knowledge, having traveled with Peter Watson around the country wherever Mr. Watson was--

THE COURT: All right, I get the point. You don't have to beat a dead horse on that. What you need to do is get someone in, some witness who can indicate how these transactions can occur, and the company -- Mr. Barrett would still be able to repossess the stock, even though a sale may have been consummated.

MR. DIETZ: We have no further questions.

THE COURT: One question I wanted to ask you, Mr. Barrett, before you step down, I understood -- and

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I got a little confused by the questions and answers from Mr. Frank, I think, but my in tialiimpression was that the Commission's Exhibit No. 1 was prepared and issued before you became actively engaged in the company.

THE WITNESS: That's correct.

THE COURT: And Exhibit 2 occurred subsequent to that and you actually prepared that?

THE WITNLSS: Yes.

THE COURT: You may step down.

THE WITNESS: May I go, your Honor?

THE COURT: Are you going to need him more?

MR. DIETZ: No, your Honor.

THE COURT: Are any of the defendants going to need him any more?

(No response.)

THE COURT: You are excused.

(Witness excused.)

THE COURT: Call your next witness, Mr. Dietz.

MR. DIETZ: Your Honor, the Commission calls as its next witness Clyde Goff.

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of $25,000 into the company that we are talking about. When did you acquire your 225,000 shares?

A In the summer of 1972.

Q Would that be June or July?

A Yes, about that time.

Q What was the value of the stock at that time?

MR. FRANK: Objection as to the meaning ofthe word "value," your Honor. I think the question is ambiguous.

THE COURT: All right, I agree. Objection sustained. Make it more precise, make the question more precise.

Q Who was in control of Management Dynamics at the time you made your investment?

MR. HELD: Your Honor, I object to the word "control."

THE COURT: All right, I think that's an appropriate objection too. Sustained.

Q Were you dealing with anyone else at Management Dynamics besides Mr. Levy?

A No, sir.

Q Did Mr. Levy ever represent toyou that he had control of the company?

A Yes, sir.

AFTERNOON SESSION

2:05 p.m.

MR. BRECHER: Your Honor, if I may, you asked when we resumed, if anyone was going to have to leave, that they should so inform you. I wish to inform you that I had previously scheduled for late this afternoon the taking of a deposition, and I am going to have to leave at 3:00.

THE COURT: You represent Mr. Lodge?

MR. BRECHER: Yes, that is correct.

MR. DIETZ: If I might, your Honor, while Mr. Brecher is here, we had noticed some depositions for the week -- or for this week. I am sure you received or will receive papers from some of the counsel for the defendants objecting to the notice of deposition.

We are unable to take Mr. Lodge's deposition. We would like, of course, Mr. Lodge's presence as a witness here. He resides further than 100 miles from the court.

In addition, it would be a considerable expense of time and manpower over the weekend to have an investigator or attorney, member of the staff of the Commission, serve Mr. Lodge.

I wonder if your Honor would direct Mr. Brecher to have his client here on Tuesday.

MR. BRECHER: Your Honor, if I may respectfully address the Court on this matter, they noticed my client, gave him very short notice, he has a crippled wife, I wrote a letter about it to you, the Commission is well aware of this.

THE COURT: That is not the issue now. That is passed.

The issue is, the Commission has asked that you have your client here on Tuesday.

MR. BRECHER: In my communications with the Commission and in the letter that I sent a copy of to your Honor, I had indicated that he requires more notice than three days because he has to have someone stay with his wife, he has to arrange to come here. His wife is a complete invalid.

THE COURT: You can notify him now.

MR. BRECHER: I will be glad to notify him now and find out if he can be here.

THE COURT: The point is, gentlemen, I am having no nonsense about this. If your client doesn't show up here for any testimony, and so forth, and that applies to all witnesses, then as far as I am concerned he is going to be held in default in regard to this matter.

MR. BRECHER: Your Honor, my client will come

voluntarily if is given notice.

THE COURT: He now has notice through you that he is to be here if the Commission wants him here on Tuesday.

MR. BRECHER: I can only call him and so advise him and reply to the Court whether or not he can be here. But he is willing to come if he has sufficient notice.

MR. DIETZ: Your Honor, if I might also make the same request of counsel for Anthony Nadino. We attempted to serve Nadino since he has an office here in New York --

THE COURT: Mr. Dietz, I don't appreciate the way you have gone about this. If you really wanted to take these peoples' depositions, and I think they have a valid objection. to set up these depositions for this case, which is, of course, not appropriate -- however, that doesn't reach the point.

The point is that these gentlemen want -- you want these gentlemen who represent various clients to have their clients here. I gather that you make the same request with regard to their being here on Tuesday.

MR. DIETZ: Yes, that's right, your Honor.

MR. GUSRAE: We have --

THE COURT: That's not the issue with regard to the taking of the deposition. The issue is in regard

to this hearing.

MR. GUSRAE: Whether or not our client will be present at the hearing?

THE COURT: Yes.

MR. GUSRAE: I'm sorry. Our client is here.

THE COURT: The deposition matter is more or less moot. I think, as a matter of fact, your objection is valid. That is not the question. The question is Mr. Dietz wants your client here on Tuesday for examination. The question is are you going to produce him.

MR. GUSRAE: At the hearing here on Tuesday?

THE COURT: Yes.

MR. GUSRAE: Fine, your Honor, he is here today and he will be here on Tuesday.

MR. KRAVER: Could I ask the Court to kindly restate the scope of your Honor's direction referrable to the requirement having people present at this hearing?

THE COURT: If they are defendants in the action, I am not going to allow this business of the fact that your client isn't available, and so forth and so on, to be any barrier to proceeding with this hearing.

The evidentiary hearing is being called not just for the benefit of the Commission, but for the benefit of your client. As a matter of fact, I think that one of

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you, one of the defendants was the one that really asked and demanded an evidentiary hearing. We are going to have the hearing, and I expect the cooperation of all the parties in regard to having people here who will testify.

Mr. Dietz wants, I don't know whether it is your client or not, Mr. Dietz wants certain people here, and he makes that request of anyone in open court to have him here. I expect him to be here on Tuesday.

MR. KRAVER: Your Honor, is that notwithstanding the fact that Mr. Dietz may or may not have taken the reasonable steps that may be appropriate to serve a subpoena upon these people?

THE COURT: Mr. Dietz has to serve a subpoena on these people in respect of -- that's one way -- in respect of his producing documents and so forth and so on. Obviously it has to be directed to individuals. But your client or whoevers'client is involved is a defendant in this action, and I am not going to play games in that regard, and he is a defendant in this action, and the deposition -- he had obviously a right to have your client -- to secure your client's presence by filing a notice of a deposition.

You or someone has objected to that, and I think that is valid. If you have got your client there by

the notice of a deposition, he could serve a subpoena on him, duces tecum and personally.

All I am saying is that he is making a request in open court through counsel for you to have your clients here. I gather he is making a request for your client, I don't know.

If he puts on the record a request that certain parties be here and they are not present, as far as I am concerned they are in default.

Let's proceed.

MR. DIETZ: Your Honor, in view of the problems that we had with Plaintiff's Exhibit 3 for identification, I am not going to have marked as Plaintiff's Exhibit 3, in addition to the original schedule of brokers Carno, Mayflower and Fairfield, Mr. Breyer's complete schedule of the pink sheet trading.

So now this has become a three-page document. I think when we suspended, your Honor, we had offered this document into evidence and there was objection being made by --

THE COURT: That objection was overruled before we suspended.

MR. SMITH: Your Honor, may we see the document that is being offered in evidence?

DIRECT EXAMINATION

BY MR. DIETZ (Continued):

Q Mr. Dreyer, in addition to examining the pink sheets to prepare Exhibits 3 and 3-A, did you also review the pink sheets prior to 8/15/72?

A I did.

Q Do you recall if you found any quotations in the pink sheets between July 11, 1972 and August 15, 1972, with the exception of A. J. Carno which appeared in name only?

A No. A. J. Carno was name only practically all the way through July and part of August.

Q Would that be from July 11th?

A It could very well be. I can't pinpoint the date.

Q Do you recall an affidavit that you signed in this matter? Would that refresh your recollection?

A Yes. From July 11, 1972 to August 31, 1972, no bid or offer quotations were in the pink sheets.

THE COURT: Why don't you give him the documents made up. You can save a lot of time, can't you?

MR. HELD: Your Honor, I didn't hear what was being said.

THE COURT: I merely suggested to Mr. Dietz, why didn't he give Mr. Dreyer the documents. It would save

us a lot of time.

Q Prior to July 11, 1972, did your examination of the pink sheets disclose any quotation for Management Dynamics stock?

A Yes. There was one quotation beginning June 1, 1972 through July 10, 1972. There was a bid of 5/16 of $1 a share by Carleton Cambridge.

Q Was there any offered price?

A No offered price at all with the exception of one bid and asked on 6/28 by E. L. Aaron, which doesn't seem to apply to this particular stock. It could be in error, because it is 3/8-5/8.

Q Mr. Dreyer, is it possible --

MR. KRAVER: I object to what is possible, your Honor.

MR. DIETZ: Withdraw that.

Q You were present this morning, weren't you, during the testimony?

A Yes, sir.

Q Do you remember the testimony about the private placement stock, alleged private placement stock issued to Mr. Watson?

A Yes.

Q In your experience in the securities industry,

to transfer it into a new name.

MR. GUSRAE: Your Honor, I am objecting to this question on several grounds. One, I think it is irrelevant to the issues here, two, Mr. Dreyer is testifying as to transfer agents, as to the brokerage business. I don't know if Mr. Dreyer has ever been in the brokerage business. I know he is employed by the SEC. I don't know if he was ever employed by a transfer agent.

THE COURT: The purpose, I suppose, is educational. I gather, though, Mr. Dreyer, let's get it out of the way, that by virtue of your investigation, you investigated this matter?

THE WITNESS: Yes, and I investigated transfer offices.

THE COURT: I gather you cannot state as a fact that any of the kinds of transfers or sales that you have been talking about, that you can't indicate to us that this occurred with regard to these 960,000 shares that we were talking about this morning?

THE WITNESS: No, sir. That is correct.

MR. DIETZ: We have no further questions at this time. Your Honor, if I might have the indulgence of the Court for about 60 seconds, I think I can pinpoint what is going to be an issue here.

THE COURT: What do you mean by the indulgence of the Court? You mean you want to argue something?

MR. DIETZ: Yes --

THE COURT: The point is, you can't interrupt to have argument. These gentlemen have a right to cross examine your witness.

MR. GUSRAE: Your Honor, initially we make a motion to strike Mr. Dreyer's testimony as it pertains to Mr. Levy, subject to connection.

THE COURT: That motion is denied.

Do you have any cross examination?

CROSS EXAMINATION

BY MR. HELD:

Q Mr. Dreyer, in Exhibit 3 and 3-A, Plaintiff's Exhibit 3 and 3-A, you say there were no quotes prior to a certain date. Is that right?

A That's right.

Q September 14th I believe, is that correct?

A No. It was August. One date in August.

Q There was nothing in the pink sheets?

A No, there were names in the pink sheets, but there were no quotes, as such.

Q There were names but no indication, nothing like NO for --

A You mean BO or BW? The NO there means names only, and that is all. It was just a name in the pink sheets showing that they were available for a market but they didn't show any market.

Q You say a bid and asked, a market starter, a quotation market starter on August 15th.

A If that's what the schedule says.

Q That is not what the schedule says. The schedule says NO through September 14th, and that is the first time there is the appearance of any prices.

A Of which broker?

Q All the brokers. There aren't any brokers with prices on it prior to September 14, 1972.

A 1972.

Q So there were no quotes prior to September 14, 1972, except for name only?

A As such. But there were names in the sheets.

Q Can you tell me when a name only appeared for the first time in Management Dynamics stock in the pink sheets?

A No, but I have gone back as far as June 1st and stated that there was a quote of 5/16 of a dollar, a bid of 5/16 of a dollar.

But prior to that I couldn't testify.

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Q So it is quite possible that there were quotes or name only brokers in the sheets --

A Prior to June 1st.

Q You say there was a quote on June 1, 1972?

A That's right.

Q The mere fact that there is no quoted price, does that mean that there is no trading that took place or there were no purchases and sales?

A No, it doesn't mean that.

Q So then there could very well have been purchases and sales at any range in dollars or pennies in Management Dynamics stock without it ever appearing in the pink sheets?

A That's right.

Q Between a myriad of brokers, is that correct?

A That is right.

Q And that is true for any time prior to June when you first started looking in the pink sheets, is that correct?

MR. DIETZ: I object. This is awfully speculative, what may be possible and what happened would be two different things.

MR. HELD: Your Honor, Mr. Dietz has put in an exhibit here --

THE COURT: All right, the objection is overruled.

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(The record was read.)

A That is correct.

Q If I understood the conversation between you and Judge Carter two minutes ago, you do not know or you have no indication at all that the stock power type of transaction that you were referring to in your testimony took place with Management Dynamics stock, is that correct?

A That is correct.

MR. HELD: That is all.

CROSS EXAMINATION

BY MR. KRAVER:

Q Did you make any investigation to ascertain whether shares of Management Dynamics were traded back in June of 1971?

A No.

Q Did you check whether or not there had been any listings in the pink sheets for June of 1971 with respect to Management Dynamics?

A No.

Q Is it possible that there were?

A Absolutely.

Q Do you know whether or not Management Dynamics was traded between June of 1971 and December of 1971?

A No.

Q You didn't check?

A I didn't check.

Q Did you go to the books and records of A. J. Carno to check whether or not there had been trading during this period of time?

A I have a transcript of his trading in Management Dynamics.

Q Whose trading?

A A. J. Carno's. I had requested it and he furnished me with it.

MR. KRAVER: May we have this exhibit marked?

MR. HELD: That is the only one I have.

MR. KRAVER: Then I will just simply question him on it.

Q Do you know whether or not Management Dynamics stock was traded in April of 1972?

A I don't know from the pink sheets, no.

Q So your investigation actually started in June of 1972?

A That is the period we were interested in.

Q You had no idea whether or not a market had been made in Management Dynamics prior to that time?

A We had no interest in that, so I wouldn't know.

MR. DIETZ: Your Honor, I object to -- I think that the answer to a question or two back may be misleading.

Mr. Kraver said, "So your investigation started in June of 1972."

Did you indicate by that statement that the investigation had started, the SEC investigation, or trading back in '72?

MR. KRAVER: Trading back in '72.

MR. DIETZ: No objection to that question.

Q Did you investigate the schedule of trades which were furnished to you by -- furnished to the Securities and Exchange Commission by the broker-dealer firm of A. J. Carno & Company?

A I did.

MR. DIETZ: Objection. I don't understand what he means by investigate.

Q Did you review the documents?

A I did.

Q Did you find in their blue sheets, an indication that they were trading Management Dynamics prior to the time that was reflected in Plaintiff's Exhibits 3 and 3-A?

A I believe we requested the transactions from January 1, 1972 to December 31, 1972, and if those trades were in there, they would have been scrutinized. But our

main scope of the investigation started early in September, and in that period was when the rise really started with the security, and that's what we were interested in.

Q Mr. Dreyer, predicated upon your many years of experience in the securities industry, have you had occasion to see many securities with little or no earnings that were selling at an attractive multiple?

MR. DIETZ: Objection. First of all, relevance. Second of all, what does Mr. Kraver indicate by attractive multiple?

Q Mr. Dreyer, in your many years of experience in the securities industry, have you ever seen a stock with little or no earnings selling at a price of anywhere from $5 a share to $25 a share?

MR. DIETZ: I object once again, your Honor The fact that other stocks may have been selling at other prices is of no relevance to the price activity in Management Dynamics, unless, of course, Mr. Kraver can make some connection.

MR. KRAVER: I will make the connection, your Honor. There is an allegation that a manipulation occurred or there was a violation of --

THE COURT: The objection is overruled. You may answer.

A CanI qualify my reply, your Honor?

THE COURT: You can give a complete answer, of course.

A (Continuing) As far as securities selling out of line with their value, many securities sell out of line to their value, and without any potential whatsoever, and this is generally due to manipulation, and that's why we have a Securities and Exchange Commission.

Q Mr. Dreyer, that by no means infers that this particular security was selling out of line through manipulation, does it?

A Well, at the value of 24 million dollars, with no earnings and no profits, I don't see how it could be selling within its range of its value.

Q But predicated upon your experience, you have seen securities which were not manipulated which were nevertheless actively traded?

A I couldn't say that definitely.

Q Have you seen securities with little or no earnings that were actively traded?

A That is so, but they had asset value.

Q Did you review the blue sheets for the period commencing January, 1972 and continuing up to June, 1972?

A I did not.

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Q You did not?

Did you ascertain whether broker-dealer firms had been submitting bids with respect to Management Dynamics during that period of time?

A I did not.

Q Did you discern who or which broker-dealer firms first submitted bids with respect to Management Dynamics?

A I believe I stated that, back as far as June 1, 1972.

Q You found nothing earlier than that?

A I didn't check earlier.

THE COURT: He didn't check earlier than that. He said that now about at least five times.

MR. KRAVER: I have no further questions, your Honor.

THE COURT: Anything further for Mr. Dreyer?

MR. SMITH: I have no questions of this witness, your Honor.

MR. BRECHER: I'd like to ask a question, your Honor.

THE COURT: All right.

CROSS EXAMINATION

BY MR. BRECHER:

Q Mr. Dreyer, you stated that you couldn't see

any valuation for the company at 24 million dollars. Were you thereby stating that if there was a peak trading price of $6 and four million shares issued and outstanding, four million times $6 is 24 million dollars, is that how you got that amount?

A That is exactly so.

Q Do you know what the number of shares available to the public of Management Dynamics, traded publicly, was?

A What the float was?

Q Yes.

A I would say somewhere below 100,000 shares.

Q Below 100,000 shares?

A Yes.

Q Do you think that the publicly traded price of $6 reflects the availability of four million shares or reflects the availability of the public float?

A No, it reflects the number of shares outstanding.

Q Do you mean people can buy the four million shares?

A No, no.

Q And that is why the price goes up?

A No.

Q Or is it only that they can buy 100,000 shares?

A But there is such a thing as dilution. Eventually your restricted securities are going to become free traded

stock, and that reflects the value.

Q I grant you that. My question is more to the effect that public interest in the stock inspires the public to buy the stock and the only shares that the public can buy is the public float, is that not correct?

A That is correct.

Q So that the $6 price may reflect the lack of availability of the stock and an interest rather than the fact that there are four million shares outstanding?

A That could be very well true.

MR. BRECHER: Thank you.

THE COURT: Anything else?

MR. DIETZ: One final question, your Honor.

REDIRECT EXAMINATION

BY MR. DIETZ:

Q Mr. Dreyer, how is a stock power generally attached to a stock certificate?

A With a regular clipping machine.

Q A stapler?

A A stapler.

MR. HELD: Your Honor, I object. Mr. Dreyer has already testified that he doesn't know or can't testify that the stock power type transaction had anything to do with Management Dynamics.

Q The following was the colloquy on January 11, 1973.

MR. GUSRAE: Your Honor, I don't think it is appropriate to have this put in the record.

THE COURT: Not unless it is inconsistent with something he said.

MR. DIETZ: It is inconsistent, your Honor, in some respects.

THE COURT: Let's hear it.

Q The qustion is, "Do you think a $6 price was reasonable for Management Dynamics," and your answer at the time is as follows:

"I personally think it was crazy."

THE COURT: That is inconsistent.

MR. GUSRAE: This type of question, whether or not it is reasonable, A, it calls for a conclusion, I don't know, I don't know what it all means.

THE COURT: I don't know what he meant by reasonable, but apparently Mr. Hoffman did, and you can ask him.

Q Do you remember being present at the SEC office on January 11th?

A Yes, sir.

Q And do you remember being asked the question I just read to you and do you remember answering?

A Yes, I do.

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Q Was the answer true, then?

A Yes.

Q Is it true still today?

A Yes.

Q Would a rise in the price of your company's stock make acquisitions of other companies an easier matter for Management Dynamics?

MR. HELD: Your Honor, that calls for pure speculation on the part of the witness. I think the witness already testified there were no acquisitions that he was aware of.

MR. DIETZ: There were attempts, however.

MR. HELD: Are we dealing with attempted violations of the law now?

THE COURT: Isn't it more or less argument, in any event?

The company becomes more attractive?

Q I show you Plaintiff's Exhibit 1. Have you ever seen this document before?

A Yes, I have.

Q Do you know if Mr. Levy reviewed that document before it was distributed?

MR. GUSRAE: Your Honor, I don'tmean to interrupt, but can Mr. Dietz please move back? I can't raally hear

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your impression that Mr. Levy was in control of Management Dynanics; is that correct?

THE COURT: He didn't testify to that. He testified that Mr. Levy told him that.

Q Mr. Levy told you he was in control of Management Dynamcs?

A Yes.

Q Was that in the area of time around August 15, 1972?

A Prior to that.

Q Take a look at Plaintiff's Exhibit 1, which is the August 19th press release, newsletter, shareholders letter. It says in the first paragraph, "Results achieved by your company during the last 2-1/2 years have been very disappointing. For a multitude of reasons, all of the company's business ventures, including those of its subsidiaries and all of its acquisitions resulted in substantial losses."

This is the sentence I am primarily interested in:

"Your company has been primarily inactive since last year when the president and all the directors except myself resigned."

Was it your understanding that Mr. Levy was the only officer and director of Management Dynamics when that thought was imparted to you that he controlled the

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company.

A I don't recall going into this detail before, but that is the way it reads to me now.

MR. HELD: That is all.

MR. SMITH: I have no questions, but I renew the motions I previously stated.

THE COURT: All right.

MR. BRECHER: No questions.

THE COURT: Mr. Kraver? Thank you.

(Witness excused.)

MR. DIETZ: My next witness is David Langenauer.

MR. BRECHER: Your Honor, I am afraid I have to leave now. I apologize for that.

D A V I D L A N G E N A U E R, a witness called by the plaintiff, being first duly sworn, testified as follows:

MR. GUSRAE: Your Honor, may we make a request at this time that Mr. Dietz turn over copies of this gentleman's testimony to us right now? We request Mr. Dietz to do so.

MR. DIETZ: We have made available, your Honor, all the transcripts of testimony to all defendants who have wanted it since our meeting in chambers. This has been available for some time. Unfortunately, I only have one

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THE COURT: Please, Mr. Dietz, let's find out when these things took place.

Q Would this conversation have taken place sometime in September of 1972?

A Mr. Levy?

Q Yes.

A I remember speaking with him, but the words were months and months ago. I don't remember exactly what transpired, unless you refresh my memory.

MR. GUSRAE: Can we still establish a date?

Q Did you speak with Mr. Levy before retailing Management Dynamics to your customers?

A Yes, sir.

Q In response to this telephone call, did you receive any information about the company?

A Yes. He sent us some releases or had the company send releases.

Q Do you see any of those releases in front of you?

A Yes, sir.

Q Could you identify them by the exhibit number?

A Exhibit No. 1. I don't remember when we got the other two, but we did get them, whether it was atthat time or not, I don't know.

Q Did you send copies of Exhibits 1 and 2 to

your customers?

A Yes, sir.

Q Can you recall conversations with any of your customers in which reference was made to this information?

A To my customers?

Q Customers of the firm, Global.

A Some customers would call and say they received the literature and one of the salesmen had sent them, and they wanted to buy stock.

Q Did you have any conversations with customers regarding Management Dynamics where they asked or you suggested that you had more literature to send them and then subsequently you would send them Exhibits 1 and 2 and they call back and buy the stock after receiving it?

A Sometimes that might have occurred. We sent this literature with each person we spoke to. They would get this literature, whatever it might be, with each bill that we sent, and if we didn't purchase it, we --

MR. GUSRAE: Your Honor, I move to strike some of these answers. Can we just have testimony as to what this gentleman did and not what the salesmen might have done with other people? It is all hearsay. Just limit the testimony to what this gentleman did.

THE COURT: Unless he knows what other people

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I don't know. I assume he was talking about what he was doing.

THE WITNESS: He said the firm.

MR. GUSRAE: I'm sorry, I can't hear a word that --

THE COURT: If he knows what the other parts do, he is capable of testifying --

MR. GUSRAE: He began by testifying to conversations that perhaps his salesmen may have had with customers which I believe is not appropriate to this particular case.

THE COURT: If that is so, I think you are right.

Q Are you familiar with the name Samuel Lodge?

A Yes, sir.

Q Would you tell me how you first came to hear that name?

A He called me up, I believe, or I -- no. I spoke with his accountant, and that's how I first heard the name.

Q What was the subject of that conversation?

A About him buying a part of our firm.

Q Do you know how this conversation with his accountant came to pass?

A Yes, sir.

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Q Would you tell us, please?

A I spoke to Mr. Levy and asked him if he had any clients who might be interested in buying a part of a securities firm, and he said he would ask his clients, and he did apparently, and he told me that Mr. Hoffman might know someone.

I called Mr. Hoffman, if I remember right, and spoke with Mr. Lodge. And that's a long time ago, and I don't know if I have it right.

Q Did Mr. Lodge subsequently become an investor in Global Securities?

A Yes, sir.

Q What was the percentage of his ownership?

A One third.

Q In fact, he owned one third of another firm which in turn owned 100 per cent of Global, wasn't that the way it worked?

A Right.

Q What was the name of the parent firm?

A Empire Consultants, I believe.

Q Do you remember how much Mr. Lodge put in for his one third interest?

A Yes, sir.

Q How much was that?

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A $50,000.

MR. HELD: Your Honor, can we get a time fixed on this also, about when this all happened?

Q Do you remember about when this happened?

A Last year sometime.

Q Would it have been on or about October of 1972?

A Could have been. I don't remember the dates.

Q Did Mr. Lodge also contribute by way of a subordinated loan 25,000 addition dollars?

A Yes, sir.

Q Does this refresh your recollection as to when Mr. Lodge became involved with the company?

A Yes.

Q What's the date of the loan?

A October 30th.

Q Of what year?

A 1972.

Q Who did Global Securities make its first purchase of Management Dynamics from?

A Paramount Record Corporation.

Q Let me show you Exhibit 4. That might help you.

A Yes.

Q What does Exhibit 4 show?

A It shows Lodge Record Corporation.

MR. GUSRAE: Objection.

Q Do you know who controlled Lodge Record or who you dealt with there?

A Do I know?

Q Yes.

A At this time?

Q Yes.

A Mr. Lodge.

Q Who was in charge of Paramount Record Manufacturing Company?

A Apparently Mr. Lodge.

Q How did it come to pass that you purchased your first block of Management Dynamics from Mr. Lodge?

A Mr. Dietz, can we go off the record for a moment so I can ask you a question?

Is that possible or not, sir?

THE COURT: I don't think -- we can't be that informal.

THE WITNESS: Your question again?

Q Do you have any recollection of how Global Securities bought 3,000 shares of Management Dynamics at 90 cents --

A Yes, sir.

Q -- from Mr. Lodge in September, I believe it is September 8th?

MR. GUSRAE: Just to clarify the record, it is not Mr. Lodge, it is the Lodge Record Company.

A It is not September. That's what I wanted to ask you. It doesn't show on here, the date.

Q Yes, it is September. It is not October.

THE COURT: You will have to speak up, Mr. Langenauer, because you are not being heard.

A I was recommended to look at this stock by a client of ours and a friend, a Mr. Richard Wellbrock. He asked us if we would be interested in looking at the stock, he had purchased some, and he thought the company was very good, and he said why don't I investigate it, it might be something possibly that my clients would be interested in.

That is how I eventually came to buy some stock in it.

Q Did Lodge come to you or did you go to Lodge for this purchase?

A After Mr. Wellbrock told us to look at the company, I spent the next couple of weeks, I called Mr. Barrett, I got the information on the company, I spoke to Mr. Levy, I went and looked at this project, and then I told Mr. Levy if any of his clients wanted to sell some stock, we would buy some, nto to sell it to our customers,for ourselves.

Subsequently I was told that there was some stock available, and we purchased it.

Q Who told you that there was stock available?

A At this point, I don't remember. Either someone called me -- I think possibly Mr. Lodge called me and said he had stock available. I really don't remember at this -- you know -- a long time passed, you know, who did it.

Q Mr. Langenauer, what was the purpose of the subordinated loan from Lodge to you, to your firm?

MR. HELD: Your Honor, I object. He is asking for Mr. Lodge's intent, Mr. Lodge's mind, as to the purpose of what a document was, not his thinking on the subject.

Q Were there any conversations between you and Mr. Lodge which preceded that subordinated loan?

A Yes, sir.

Q Do you remember what was said?

A In respect to the subordinated loan?

Q Yes, that's right.

A Well, our objective in the beginning was --

THE COURT: What was said. You had a conversation with Mr. Lodge about the subordinated loan. What you told him and what he told you, that's the question.

A (Continuing) It was all discussed at the time he made the original investment, that he was going to

loan us $25,000 subordinated loan, and that's as far as it went. That was part of the original agreement, even though it didn't happen in one day. It was a week between.

MR. DIETZ: No further questions, your Honor.

MR. HELD: Your Honor, could we have a five minute recess, a two minute recess, so we can just briefly review this testimony that Mr. Dietz has just given us of Mr. Langenauer?

THE COURT: All right, I will give you two minutes.

(A short recess was taken.)

CROSS EXAMINATION

BY MR. SMITH:

Q I just want to be sure of your testimony on one point, Mr. Langenauer, and that is, do I correctly understand you to say that you made your own independent investigation of the stock of MD?

A Yes, sir.

Q Do you know a person, a Mr. Joseph Cirello who has been named by the SEC as a defendant in this action?

A Do I know him?

Q Yes.

A Yes, sir.

Q Is he employed by Global Securities today?

A At this time, yes, sir.

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Q Do you know when he was originally employed by Global Securities?

A About -- I'm guessing -- three months ago, two months ago.

MR. SMITH: Thank you very much.

THE COURT: All right, Mr. Held. Mr. Held, come on, let's proceed.

CROSS EXAMINATION

BY MR. HELD:

Q Mr. Langenauer, you testified earlier that you first heard of Management Dynamics stock from a customer of yours.

A A customer and associate, Richard Wellbrock.

Q Prior to that time you had not heard of Management Dynamics?

A That is correct.

Q Did there come a time in the course of your looking into the company, I believe you put it earlier, where you called some town officials or local officials of some township to determine what certain projects were doing, and so on?

A Yes, sir.

Q Do you recall whether that was prior to or subsequent to the time when any shares were sold by Global to customers?

A I called -- there are two places. One was in

Pennsylvania, I called that prior to our selling the stock, I believe, and I think I called the other place afterward. It is hard to remember.

Q In discussing with Mr. Lodge where these securities of Management Dynamics were coming from that he was selling to Global, did he ever mention that he had bought them in the open market?

A I never discussed that with Mr. Lodge.

MR. HELD: That is all, your Honor.

THE COURT: Mr. Kraver?

MR. KRAVER: No, your Honor, no questions.

THE COURT: Anything further?

Thank you very much.

(Witness excused.)

MR. DIETZ: Mark this as Exhibit 5, please.

(Plaintiff's Exhibit 5 marked for identification.)

THE COURT: All right, Mr. Dietz, call your next witness.

J O S E P H M. M I L A N A, a witness called by plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DIETZ:

Q Mr. Milana, my name is Roger Dietz and I am counsel for the Securities and Exchange Commission, the plaintiff in this action. We never met before, have we?

A No, we haven't.

Q Where are you presently employed?

A Mayflower Securities.

Q What is your position there?

A Vice-president.

Q Do you have a function at Mayflower?

A I am in charge of the trading room.

Q How long have you held that position?

A I'd say about four or five years.

Q Do you recall a period of time when Mayflower traded the stock of Management Dynamics, Inc.?

A Yes.

Q I'd like to show you Plaintiff's Exhibit 5.

MR. DIETZ: Exhibit 5, gentlemen, was attached --

MR. SMITH: Exhibit G to the moving affidavit?

MR. DIETZ: Exactly.

Q Do you recognize that document?

A Yes.

Q What does it portend to be?

A It is a questionnaire on the trading of the stock of Management Dynamics by Mayflower Securities.

Q Do you recognize the signature?

A Yes, I do.

Q Whose is it?

A Roger Barnett, our cashier.

Q Is there any reason for you to believe that this is other than accurate?

A No.

MR. DIETZ: The plaintiff offers Exhibit 5 into evidence.

MR. SMITH: No objection, your Honor.

MR. KRAVER: No objection.

(Plaintiff's Exhibit 5 received in evidence.)

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MR. DIETZ: Your Honor, we would like the Court to take judicial notice of an order for private proceedings and findings in that proceedings by the Securities and Exchange Commission, as it pertains to Mayflower Securities. If your Honor will take judicial notice of this public official document, there will be no need to question the witness.

MR. SMITH: I object to this. I don't even know what the document is, but I certainly am going to object

to it.

MR. HELD: We do know what Mr. Dietz is referring to, but it has absolutely nothing to do with Management Dynamics, it is something that happened sometime ago, I believe in 1970.

MR. SMITH: That is apparently what it is, and I will object to it.

MR. GUSRAE: I have a lot of case law back in my office saying this is not admissible in a civil action. I just had this before another judge of this court.

THE COURT: What is the purpose of it? I see it. What is the purpose of it?

MR. DIETZ: Insofar as it goes to a need for injunctive relief. It shows that the defendant Mayflower has been the subject of a prior administrative proceeding ordered by the Commission, and that Mayflower was suspended for a period of 40 days from effecting transactions as an underwriter in securities.

MR. GUSRAE: And that goes to show why you need injunctive relief here?

MR. DIETZ: That goes to show that this defendant, your Honor, has once before violated -- been found to have violated the securities laws and is not merely, so to speak, a peripheral member of the defendant group.

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MR. HELD: Your Honor, so was Merrill Lynch, and they are not named in this proceeding either. That has absolutely no relevance and doesn't belong in this case.

MR. GUSRAE: It is a part of the Merrill Lynch decision.

THE COURT: The only thing I can do, gentlemen, on this --

MR. DIETZ: Your Honor can give it whatever weight he feels, of course.

MR. GUSRAE: I think it is extremely low of Mr. Dietz, who is a staff member, who has been before this Court, to attempt, even, to put in a decision by an administrative body, not even another court, into this case, where there is clearly nothing to do with anything.

I don't even think it is admissible under the case law.

MR. DIETZ: Your Honor, I will be glad to ask the witness questions pertaining to this.

THE COURT: The point is that I am not clear myself as to whether or not any prior infractions go to determine that there is -- rather bolster up the need for injunctive relief. My inclination would be that it would.

However, I think that what I am going to do is to allow it in and you gentlemen can enlighten me as to

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MR. GUSRAE: Mr. Levy is on the stand. He is about to testify.

THE COURT: Mr. Dietz, please. You don't have to warn this man of his rights. He is in a court and he is before me, in regard to that. Ask him questions, please.

Q Mr. Levy, how are you employed?

A I am a lawyer.

Q Are you associated with a law firm?

A Yes, I am.

Q What is the name of that law firm?

A Levy & Levy.

Q Are you a partner in that firm?

A Yes, I am.

Q Where did you go to law school?

A University of Pennsylvania.

Q When did you graduate?

A Law School? 1966.

Q When were you admitted to the Bar?

A The same year, 1966.

Q In what state?

A New Jersey.

THE COURT: Did you say 1966?

THE WITNESS: Yes, I did.

Q Are you admitted in any other jurisdiction?

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A No, I am not.

Q Have you been practicing law since 1966?

A Yes, I have.

Q What has been the nature of your legal practice since 1966?

A All sorts of general practice.

Q Do you do securities work?

A Now or did I do securities work?

Q At any time during --

A Yes, I have done securities work.

Q Would it be fair to say that in 1972 you were specializing in securities work?

A I don't characterize it. I did do securities work.

Q What sort of securities work have you done, Mr. Levy?

A Registration statements. That's about all.

Q How many registration statements have you been involved with?

A Involved with? Can you ask a more specific question?

THE COURT: You mean how many registration statements has he prepared?

MR. DIETZ: Yes.

A Maybe 9, 10.

Q Mr. Levy, are you familiar with Ocean Data

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Equipment Corporation?

A Am I familiar with it?

Yes, I have heard the name.

Q Are you counsel to the underwriter in that -- excuse me.

Did Ocean Data --

MR. GUSRAE: I have got to ask for the relevancy of this question.

THE COURT: I think the relevancy of the question is very clear. I gather what Mr. Dietz is attempting to establish is this man's familiarity with --

MR. GUSRAE: Your Honor, I didn't object to the fact that Mr. Levy may have done 9 or 10 registrationstatements. I am not objecting if Mr. Dietz wishes to qualify Mr. Levy as an expert in some manner, shape or form.

Now he is getting into the particular registration statement --

THE COURT: You don't know at the present time, Mr. Gusrae,what he is going to ask. The question isn't objectable. I had assumed that he is asking -- was going to ask this question and others to establish that he has done a fair amount of work on that.

But if it comes to something else, then you have a right to object.

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Q Mr. Levy, have you ever been counsel to a public company other than Management Dynamics?

A Well, I was counsel for the registration statements that I prepared.

Q I am not talking about registration statements. I am talking, in your legal experience, have you ever been counsel to a public company?

A Once these companies that I prepare registration statements for went public, for a short time and thereafter I have been counsel for them.

Q Have you ever been counsel to underwriters?

A There were occasions, yes.

Q Have you ever been counsel to broker-dealers?

A I class that the same category.

Q Are you familiar with a company named Ocean Data Equipment Corporation?

A I said yes before.

Q Did there come a time when Ocean Data Equipment Corporation filed a registration statement to offer securities under the Securities Act of 1933?

A Yes.

Q When was that?

A In 1969 sometime, I believe.

Q Would it be October of '69?

A If you say so.

Q Were you counsel to the underwriter there?

A Yes, I was.

Q Who was the underwriter?

A I believe it was Patterson, Matskin & Company.

Q Are you familiar with a company named Associated Leisure Enterprises, Inc ?

A Yes, I am familiar with it.

Q Did that firm file a registration statement with the SEC for public sale of its stock?

A Not that I know of.

Q Excuse me?

A I am sorry, Associated Leisure?

Q Yes.

A Yes, it did. That was one of my clients.

Q That was in 1970, wasn't it?

A It would sound that way, yes.

Q Did you participate in any way in the preparation of that registration statement?

A Yes, that was one of my clients.

MR. GUSRAE: Your Honor, at this time I'd like to object and approach the bench on this.

THE COURT: You don't have to approach the bench. There is no jury here.

MR. GUSRAE: Your Honor, I think it would be the same type of situation, I am not sure yet, before we get into it --

THE COURT: Mr. Gusrae, sit down. You have no objection at the present time. Let's don't delay the proceedings. When you have an objection,make it. He is now, as far as I know, establishing that Mr. Levy was counsel to these various companies and that they filed registration statements. He is certainly entitled to do that.

All right.

Q Mr. Levy, are you familiar with a company called Digi Log Systems, Inc.?

A Yes.

Q Did that company file a registration statement with the SEC?

A Yes.

Q About when was that, do you remember?

A Somewhere between '69 and '71, somewhere in there.

Q Were you associated with the preparation of that registration statement?

A Yes. That was one of my clients.

Q Are you familiar with Electro Dent, Inc.?

A Yes.

Q Did Electro Dent, Inc. file a registration statement

with the SEC for public sale of its securities?

A Yes, it did.

Q Was that in 1971?

A Sounds right.

Q Were you an officer and director of Electro Dent?

A Yes.

Q Did you also help prepare the registration statement?

A Yes.

Q Do you recall a second registration statement that you prepared for Digi Log Systems in 1972?

A I told you, Digi Log was one of my clients. Yes.

Q Do you recall Digi Log filed two registration statements with the SEC at different times?

A Both were successful, yes.

Q Did you help participate in each of those?

A I participated. I am the one who is the lawyer. It is my client.

THE COURT: He told you now for the third time that that was his client.

Q Are you familiar with a firm, company, known as Artists USA, Inc.?

A Yes.

Q Is that one of your clients as well?

A It was.

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Q Did you prepare on behalf of Artists USA, Inc., a notification and offering circular pursuant to Regulation A of the 1933 Act?

A Yes, I did.

Q Are you familiar with the firm known as Allstate Acceptance Corporation?

A Yes.

Q Were you counsel to this firm?

A I think I better clarify.

During the periods that you are talking about, I had maybe six or seven additional attorneys working for my firm, and most of these underwritings that you are mentioning were actually -- the main work was done by them, and I did review it, so in that context I say -- in all that context, yes.

Q You accept responsibility for these underwritings, don't you?

A Yes, absolutely.

Q Did you help prepare a notification and offering circular pursuant to Regulation A of the '33 Act for Allstate Acceptance?

A As a Resulation A, I didn't hear your question, I reviewed it, yes, yes, I did.

Q Did you do the same with respect to Dekon Corporation?

Q Did you prepare on behalf of Artists USA, Inc., a notification and offering circular pursuant to Regulation A of the 1933 Act?

A Yes, I did.

Q Are you familiar with the firm known as Allstate Acceptance Corporation?

A Yes.

Q Were you counsel to this firm?

A I think I better clarify.

During the periods that you are talking about, I had maybe six or seven additional attorneys working for my firm, and most of these underwritings that you are mentioning were actually -- the main work was done by them, and I did review it, so in that context I say -- in all that context, yes.

Q You accept responsibility for these underwritings, don't you?

A Yes, absolutely.

Q Did you help prepare a notification and offering circular pursuant to Regulation A of the '33 Act for Allstate Acceptance?

A As a Resulation A, I didn't hear your question, I reviewed it, yes, yes, I did.

Q Did you do the same with respect to Dekon Corporation?

Q Did you prepare on behalf of Artists USA, Inc., a notification and offering circular pursuant to Regulation A of the 1933 Act?

A Yes, I did.

Q Are you familiar with the firm known as Allstate Acceptance Corporation?

A Yes.

Q Were you counsel to this firm?

A I think I better clarify.

During the periods that you are talking about, I had maybe six or seven additional attorneys working for my firm, and most of these underwritings that you are mentioning were actually -- the main work was done by them, and I did review it, so in that context I say -- in all that context, yes.

Q You accept responsibility for these underwritings, don't you?

A Yes, absolutely.

Q Did you help prepare a notification and offering circular pursuant to Regulation A of the '33 Act for Allstate Acceptance?

A As a Resulation A, I didn't hear your question, I reviewed it, yes, yes, I did.

Q Did you do the same with respect to Dekon Corporation?

A Yes.

Q That was in 1972 also, is that right?

A You say also? It was 1972.

Q Were you counsel to the issuer?

A I am sorry, on what, Dekon?

Q Yes.

A I am special counsel. I wasn't general counsel.

Q Did you also prepare and file with the Securities and Exchange Commission registration statements for other companies, which registration statements for one reason or another never became effective or were withdrawn?

A Yes, there are a few.

Q Was Comp U. Hedge one of these?

A Yes.

Q In 1971. Leisure Time Enterprises in 1970?

A Yes.

Q Containerized Storage and Land Developers, 1971.

The dates I am reading are the dates they were withdrawn. Is that one?

A I am sure there is no argument about the dates. It is certainly within a two-year period. These were definitely submitted to the SEC under my name, whether I did them or took responsibility for them, that is the main thing.

The answer is yes to all of that.

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clients, the one that I actually worked on, not just reviewed, that I liked, and these are my clients, my companies, that I am very close to the presidents with. I am sure that from time to time they are on the wall, at one period of time it was for a month or two. It is not now and hasn't been for quite a while. But there was a time there was. Again, I don't know what you are leading to, but, okay.

THE COURT: Mr. Levy, you stop being a lawyer and be a witness. You have lawyers sitting down there. You be a witness now.

THE WITNESS: As soon as I said that, I realized my mistake. I am sorry.

THE COURT: All right.

Q In the course of your professional career, have you also had communications with transfer agents?

A Yes.

Q Is that a fairly common aspect of your work?

A It occurs when the need arises.

Q As of December, 1972, would you say that you personally specialized in securities matters?

A No, I wouldn't say that. It certainly was a major part of my work.

Q Do you remember appearing at the offices of the SEC on December 7, 1972?

A Yes, yes, I do.

Q Do you remember you were there with counsel, weren't you?

A There was a lawyer with me.

Q Do you remember being interviewed by me before a reporter and being asked questions and giving answers?

A Yes, I do.

Q Do you remember, and I will refer for the purpose of the record to page 8 of this transcript, my asking you the following question:

"What sort of practice do you have, Mr. Levy?"

And do you remember giving the following answer:

"I personally specialize in securities matters. That is all I do. But the firm itself does rather general law practice."

MR. GUSRAE: Your Honor, first of all, I don't think it is proper for Mr. Dietz to have that inflection of voice.

THE COURT: There is no jury here.

MR. GUSRAE: I know, but still it is --

Second of all, I don't see any difference in the answer, the firm itself does a general law practice, than what this gentleman testified here.

THE COURT: I see the difference.

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Q Do you remember giving the answer to the question that I posed to you at that time?

A No, I don't remember that answer.

Q If I show you this transcript, will that refresh your recollection?

A That is what it says on the transcript, but I don't remember that, no.

Q In other words, the transcript is wrong?

A Could be.

Q Did you have an opportunity to review this transcript?

A My attorneys gave me a copy last week, but other than that, I had never had a chance to review it.

Q Did you ever request a chance to see the transcript?

A I saw no reason to.

THE COURT: He said his attorneys gave it to him last week . That is what he said. I assume when they gave it to him, he saw it.

Q Did you have a chance to review the transcript at that time?

A I quickly glanced at it. Yes.

Q At the time that Mr. Barrett came into Management Dynamics, where was Management Dynamics located?

A The offices?

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Q Yes.

A They had an office in my office building at 130 North Broadway, Camden, New Jersey.

Q Do you own any shares of Management Dynamics?

A Yes, I do.

Q How many do you own today?

A I have to look at the transfer sheet. I know originally it was 55,000 unregistered shares and then by way of gift shares from Mr. Hoffman, I believe Mr. Goff, it is either 5,000 or 10,000 shares more. I honestly haven't looked at the safe. My stock certificates are in my safe. I will say somewhere between 60 and 80,000 shares.

Q Do you own unregistered securities of other companies?

A Oh, yes.

Q How many shares would you say that you have?

MR. GUSRAE: Your Honor, I object.

THE COURT: Objection sustained.

MR. DIETZ: Your Honor, if I may, we are asking for an injunction as to the securities of Management Dynamics as well as the securities of any other issues . The fact that Mr. Levy owns or may in the future acquire unregistered securities of other companies or may indeed become involved in other companies I think is relevant to the breadth and scope of the injunction against him.

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MR. GUSRAE: Your Honor, first he has to win this one.

THE COURT: I would think that is so. If you can establish that Mr. Levy's conduct is such that he should be barred, not only in regard to this matter but in regard to others, I don't think you need to go into questions about the other stocks .

I think if that is shown, that will be shown. I think Mr. Gusrae is right. I would suggest you concentrate on this one .

Q Mr. Levy, I'd like you to look at Plaintiff's Exhibit 1.

Have you ever seen that before?

A Yes.

Q Did you prepare it?

A Yes, I did.

Q Did you authorize it to be mailed to shareholders of Management Dynamics?

A Yes.

Q Did you authorize it to be mailed to brokers and dealers?

A No.

Q Aren't some brokers and dealers shareholders of Management Dynamics?

A Yes, sir.

O Wasn't Exhibit 1 mailed to them?

A If they are shareholders.

Q I am asking you, weren't they shareholders at the time the --

A I didn't look over the list to see who was on these labels. My secretary mailed them out. I assume by their nature, any company would have broker-dealers as shareholders. As to how many they were, who they were, I really can't tell you.

O Do you feel, Mr. Levy, that Plaintiff's Exhibit 1, particularly the footnotes on page 5, is a fair and accurate representation of the options which were assets of Management Dynamics?

MR. GUSRAE: Your Honor, isn't that what we are here for? Isn't that exactly what we are here for, the issue?

THE COURT: Yes, but -- I agree, but that is an open question. I assume, I am now interpreting the question, what he is asking is did he feel at the time that he made the statement that it was an accurate reflection. I think he can ask that question.

A The written portion of the letter was mine, was my writing, it was my information, and to the best of my

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knowledge it is extremely accurate.

The second part of it, what you are referring to, footnotes and financial statements, were prepared by the company's accountant, Mr. Winer. He went over it with me. I saw nothing that he showed me and from the work papers that he showed me that would lead me to believe anything other than it is as accurate as possible, and I still feel that today.

Q Do you feel that Plaintiff's Exhibit 1 contains the sort of information that would be required in a Regulation A or full registration statement?

MR. GUSRAE: Your Honor, I object to that question because, A, this is not a registration statement, it is not an S-1. That is first of all.

Second of all, I assume if we are talking about his feelings, he is talking about him as an expert witness, and not as a witness who wrote this.

THE COURT: I must confess, Mr. Dietz, I don't understand the question.

MR. DIETZ: The point of the question, your Honor, is that the Commission contends that the information that Management Dynamics disseminated to the public was far less than what is required by the law, and what they would have been required to --

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THE COURT: The question about that -- why don't you establish that? You don't have to ask your man whether -- in regard to it. Ask him what is required or ask him does it have various items in it if the law requires it in regard to the statement.

I don't care what his feelings are about the law.

Q Mr. Levy, you are familiar, are you not, with the requirements of disclosure in a full registration statement or an S-1?

A Yes.

Q What are the items of information that are required to be disclosed when a company files a registration statement for the first time?

MR. GUSRAE: Your Honor, again, I must object. This is a shareholder's letter. It is a letter to shareholders. I see no relevancy about a registration statement or an S-1. It is completely different than a shareholder's letter, it is night and day. The only two documents before you, your Honor, the only two documents in this case are two letters to shareholders.

THE COURT: What about that, Mr. Dietz?

MR. DIETZ: Your Honor, Mr. Gusrae may well have a point, if Management Dynamics were the sort of company that filed either a registration statement when it initially

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issued its stock to the public or subsequently filed a registration statement because it had met the requirements of the Securities and Exchange Act of 1934.

In other words, one million dollars of assets and 300 shareholders. Management Dynamics was neither. That sort of a company files the full documentation and material that is required by the Securities Acts -- may well send out a shareholder's letter -- I am not saying they could send one out like Exhibits 1 and 2, which we maintain in any event are fraudulent, but they can send out shareholders' letters as long as --

THE COURT: All right, all right, Mr. Dietz. I don't really know why I should be assisting you in trying your case, but there is no point in your asking this man what the requirements are of the law in respect to a matter. If you want to get that in and make that argument, the thing for you to do, I would suggest, is to ask him does the statement have the various things that you think the law requires. That is all you need to do.

Let me suggest further that when we recess for Tuesday, I would suggest that you get -- do some further homework on this case so it can be presented appropriately.

All right, let's proceed.

Q Mr. Levy, did you review Plaintiff's Exhibit 2 before it was disseminated to the public?

A Mr. Barrett asked me to read it before he sent it out. Yes, he did. Yes. It wasn't a very detailed review, but I reviewed it.

Q Did you make any changes from what Mr. Barrett had originally proposed here?

A No. I made various changes and suggestions to him of various wording that he had that I thought was misleading, and some he followed and some he didn't. But on the main part I was not -- on the main part I was satisfied that it was certainly an acceptable type of letter.

Q When you say in the main part, do you have today any reservations about Plaintiff's Exhibit 2?

A If I had written the letter, I would have written it much differently. But it is just a matter of style, that is all.

Q As far as the information in there is concerned, do you have any reservations about it?

MR. GUSRAE: I object. If he is asking whether he has any reservations today as to what these things say, I gather some of these things did not come to pass. So he might have some reservations --

THE COURT: Mr. Levy, by virtue of his answer, practically demanded the question and the question is appropriate in view of what he said. Objection overruled.

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A Can you repeat the question to me?

THE COURT: If Mr. Levy would stop being the lawyer and start being the witness up here, he might not get himself into those kinds of things.

(The record was read.)

A The actual details of Mr. Barrett's business was really in his mind, not in mine, but from the facts that he told me and the facts that I generally verified, I don't have any major reservations, no.

THE COURT: Your answer, Mr. Levy, if you had any reservation, the answer could have been yes or no. Start answering questions, please.

All right, proceed.

Q Mr. Levy, what was the date of the shareholder's meeting that ratified Mr. Barrett's coming into Management Dynamics?

A September 4, 6, 1972. Somewhere in that area. Either 4th or 6th of September.

Q The date of that letter and press release are October 25th and 13th respectively, are they not?

A Yes.

Q Can you tell me if there are any reasons which caused you to issue Plaintiff's Exhibit 2 at the time that you did?

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A It took about three or four weeks to get labels from the transfer agent to mail them out. It took about one week to get the secretaries to actually put the letters into the mail, it took a while to write the letter, I understand. Mr. Barrett is a very careful and very -- well, at times a very slow man, and just in the normal press of business, that is as soon as we got it out.

Q Did you feel it was incumbent upon you as legal advisor to the company to urge the company to get this information out to the public as soon as possible?

A Not urgent need, but there definitely was a need. Not a need, but it certainly seemed to be preferrable to get this information out because the August 15th letter just described the assets that would be voted into the company, and I thought it would be nice for the stockholders to have a little more detail concerning these assets and the plans of the president.

Q On or about August 15th you controlled Management Dynamics, didn't you?

A I don't know what you mean by controlled.

MR. GUSRAE: Objection.

A (Continuing) There was no other office. I was abandoned. The president, vice-president, all the other officers, they just quit and left, and I remained there.

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he was in control of the company. I suggest that the type of questioning that is going on now --

THE COURT: I agree. I don't think this is very helpful. I can't attribute any nefarious scheme, Mr. Dietz, by virtue of the fact that the new president is elected on September 6th and gets a letter out on October 15th.

Q Mr. Levy, what is your procedure in transferring restricted stock or issuing restricted stock?

MR. GUSRAE: When he says his procedure, I am not quite sure I understand the question.

Q Let me ask you a prefatory question.

From time to time do you receive requests to have restricted stock transferred from one owner to another?

A For Management Dynamics or for any company?

Q For any company.

A Yes.

Q Are you called upon to issue instructions to the transfer agent to effect that request or those requests?

A Sometimes.

Q When you do issue such instructions, what do you tell the transfer agent?

A Sometimes it varies with the transfer agent. They each have different sets of procedures. In general?

Q Yes.

A Let me make sure I have your question right.

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You mean anyone from -- who already has unregistered stock and wants to transfer it to somebody else, is that your question?

Q Yes.

A I have to see the number of people that they intend to transfer to and the reasons therefore, and I usually talk to the people on the phone and inquire to them as to what reason they may have, and then make sure that there is an investment letter signed by the new transferee of the stock, and then send written instructions with the investment letter to the transfer agent, or unless the transfer agent has some other procedure, usually that is what happens.

And the transfer agent sends the certificate with the legend on it to me for distribution.

Q Is the new certificate of a legend on one side or more than one side?

A It varies with the transfer agent. Usually there is a legend on the front saying. "Please see the back side certificate," and on the back is the standard restrictive type legend.

Some transfer agents put the legend on the front and on the back.

Q But notice of some sort is placed on both sides,

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generally, isn't that so?

A Yes. It happens with Management Dynamics, it is. But other companies it is just on the front.

Q Do you know if this restricted legend is required by law?

A To my knowledge it is not required by law.

Q But it is your testimony, as I understand it, that in Management Dynamics, at least, all restricted stock that came through your office had a legend affixed on both sides?

A For all companies except for Mr. Watson's stock, all had legends on -- well, we will confine it to Management Dynamics. As I remember, I think on both sides -- at least it was on both sides. I think most of them it was on both sides.

Q Let's talk about Mr. Watson. How did it happen that you permitted the stock to be issued to Watson in Watson's name and without any of these restricted legends?

A It was part of the conditions he had for the approximately one million dollar private placement to the company.

Q Did you know that there was a danger in that?

A I didn't think there was any danger, as long as the size of the certificate was large enouhg that any reasonable person, even unreasonable person, would check with the transfer

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agent or with the company, since the stock was selling at over $5 a share at that time, a 5,000 share certificate was $25,000, anyone who is going to spend that much money, there is no doubt in my mind, because I have talked to various transfer agents and other attorneys, that any legitimate person would make an inquiry as to the genuineness and validity of this type of certificate.

Q You bring up an interesting point. Was there any way of someone knowing whether this stock was restricted by looking at the certificate?

A No.

Q There is no legend on it, right?

A It is without legend. That is correct.

Q So you yourself say $5 times 5,000, what would the value of that stock have been at the time, as restricted stock?

A I am not an accountant.

Q What was Watson going to buy it for?

MR. GUSRAE: I have to object to this, your Honor. The value, I think he has given the answer.

MR. DIETZ: The price.

MR. GUSRAE: The price of what?

MR. DIETZ: Of the Management Dynamics stock, Mr. Gusrae, how much a share.

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MR. GUSRAE: We know what it is according to your own schedule.

MR. DIETZ: No, how much was Watson going to buy it for?

THE WITNESS: He wasn't going to buy it. He was an agent.

Q What was his principal going to buy it for?

MR. GUSRAE: If he knows.

A Since no deal was ever concluded, that is purely speculative.

THE COURT: Come now, Mr. Levy --

Q Was there any price discussed, Mr. Levy?

A Yes.

Q What was the price?

A Somewhere between $1 and $1.10 a share.

Q Why was it $1 rather than $5?

A As unregistered stock, meaning a person that bought it would have to hold on to it for many years, a minimum of two years, at least a certain portion of it. Certainly the price wouldn't be equated to the price of the market stock. It has to be something less. That was the price agreed upon. In other companies, that seemed to be about the usual rate.

Q This was going to be a sale of stock from the

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company through Watson to other identified people, is that so?

A Unidentified people.

Q Unidentified?

A Yes.

Q Isn't it a fact that the law requires there to be a registration statement filed for -- any time a company wants to sell its stock, unless there is an applicable exemption?

MR. GUSRAE: What the law is, the law is, your Honor.

THE COURT: That is right. It doesn't make any difference. Why ask him what the law is.

MR. DIETZ: I am showing, your Honor, that he acted in an irresponsible --

THE COURT: Whether he knew what the law was or not, the question is did he violate it and did he act irresponsibly. With his knowledge of the law, as you are suggesting, with his knowledge of securities and -- I would be able to assume that he knew what the law was. Come on. Let's move into -- move on in this case, please.

Q Mr. Levy, how many people was Watson representing?

A As far as I know, one.

Q What is the basis of that knowledge?

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A His representation to me.

Q Did he ever give that representation in writing?

A I saw no reason to ask for it.

Q Excuse me?

A He gave me nothing in writing, that I know of.

Q Are you sure about that, just one person?

MR. GUSRAE: I am sorry. I am missing the trend. Are you asking did Mr. Watson give this representation in writing or did Mr. Levy?

Q Did Mr. Watson? Is there any representation that Watson represented only one person?

THE COURT: The question was how many people did Mr. Watson represent, and Mr. Levy said one. He said how do you know that, and he said that is what he told him.

MR. GUSRAE: Then the question was, was this ever put in writing. I am wondering who was supposed to put this in writing?

THE COURT: I don't know. I assumed that he means did Mr. Watson ever put in writing to Mr. Levy that -- who he represented. Is that the question?

MR. DIETZ: Yes, your Honor.

THE WITNESS: No, he didn't, nor orally did he tell me.

Q Excuse me?

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A Nor orally did he tell me.

THE COURT: Did he identify them?

THE WITNESS: No, he did not identify him for the specific reason that I guess he felt we would go around him and go to the buyer directly, and thus he wouldn't get his commission.

THE COURT: But you are speculating on that? You don't know that, do you? Did he tell you that?

THE WITNESS: No, he didn't. I am speculating.

Q Mr. Levy, do you remember once again in your testimony before the SEC where you said in reference to Mr. Watson and an associate of his named Ronald Plumlee, page 51, "they claimed they had capabilities of placing the stock with large institutional buyers."

Is that correct? Is this a correct transcript of your statement?

A I have no idea if it is correct. I didn't have a chance to see it.

Q Did you say that?

A I don't know if I said buyers, buyer. To me it all means one group, as far as I am concerned.

Q Is this transcript accurate?

MR. GUSRAE: Your Honor, I'd like him to look at the transcript. There is no question.

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MR. DIETZ: This is a statement by Mr. Levy, page 51, line 25. I am asking him if he said what is recorded on this transcript.

THE WITNESS: You are asking me whether I used plural or singular?

Q Did you say what is recorded here?

A How am I supposed to remember -- what is it, over a year ago? I don't know if it was plural or singular. All I know is it was singular, the group. Sometimes I may use bad grammar, or it may be taken down wrong, or 10,000 reasons. But as far as I know it was one group of people that he was referring to.

Q On page 52, at the bottom of the page, where you say, "I think he enticed me first with $500,000, that is a good round sum, it would be 20 per cent or 25 per cent, I don't remember, he kept changing the story every time he ever talked to me of the market value of the company, and he wanted a private placement that he has the people to do it with."

Do you remember making that statement?

A I see it is here. I am sure it is essentially correct.

Q Do you remember saying, "people"?

A No. How many times you use people, persons, it is

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interchangeable, I am sure I am not going to remember what exact word I used at that time.

Q What assurances had you if Mr. Watson were successful in making this private placement that the person or persons to whom he sold Management Dynamics stock wouldn't go out and sell to other people?

A You say assurances, the people that -- the group that he would get, what would happen was that that particular stock and Mr. Watson's would go back to the transfer agent, and these certificates would be issued for these people, and it was fully our intention to either put legends on the stock or see where they are going to hold the stock and what intention they had, but until that happened we didn't know. But even if he weren't going to do that, the transfer agent had a stop transfer order next to the stock certificate, and that alone is protection enough.

Q It is not necessary, is it, for --

THE COURT: I am sorry. Mr. Gusrae, what are you standing for?

MR. GUSRAE: Your Honor, I would like to point out to the Court that there is an assumption in the question that there was a sale of this stock. There really has been no proof regarding that.

THE COURT: All right.

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Q Mr. Levy, did you personally hand the 560,000 shares of Management Dynamics stock to Peter Watson in Tampa, Florida?

A Yes.

Q Did you send him an additional 400,000 shares through Air Freight down to Dallas, Texas about a week later?

A Did I personally send them?

Q Yes.

A Yes.

Q When did you finally get all this stock back?

A When we requested it, we got back 910,000 shares and 50,000 shares we got back a couple of weeks after that.

Q Is it fair to say that the 560,000 shares were hand delivered to Mr. Watson at the end of October, 1972?

A I think it was the 28th, 29th.

Q And the additional 400,000 shares, when were they mailed?

A A week later, somewhere in that area.

Q When did you get back the 910,000 shares?

A When we requested it.

Q When was that?

A I believe we requested it after my meeting with you when you called the problem that there might be with the

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particular stock -- when was this, December 7th, December 8th? We requested it that weekend and we got it back that Monday.

Q Did you request all your stock back or just 910,000 shares?

A No, we requested all of it back.

Q But you got back 910,000?

A In that load, yes.

Q When did you get the remainder back?

A I just testified to that. Three or four weeks thereafter.

Q Isn't it true that the remainder didn't come back until January 28th?

A I don't remember it that late. I thought it was somewhere in the middle of January. Maybe early January, even.

Q As I recall, the 50,000 that was outstanding, you didn't receive that all back at once, did you?

A I really don't remember.

Q You received 15,000 and then following that you received 35,000, isn't that the way it happened?

A I honestly don't remember. If you say so --

Q I am asking you.

A It could be possible.

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Q Tell the Court. The Court hasn't read your testimony.

A All right.

Mr. Watson had kept the stock there in escrow for savekeeping and I picked it up there.

Q Why did Mr. Watson leave that 200,000 shares at the bank?

MR. GUSRAE: If the witness knows why Mr. Watson did something.

THE COURT: The witness is a lawyer. You don't have to school him in that regard.

THE WITNESS: I didn't hear what he said, even. What is the question?

Q The question was, why did Mr. Watson leave that stock at the bank?

A I can't read his mind. I don't know.

Q Did anyone ever tell you?

A As to why he left it there?

Q Yes.

A No, no one did.

Q You are sure no one ever told you how that stock got the the bank?

A That was not your question, Mr. Dietz.

Q Excuse me?

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used.

Point No. 3, it is very clear that Mr. Levyis familiar with how things o9erate on the market and how to use securities.

You can't hit him over the head with a matter like this, Mr. Dietz.

Q Mr. Levy, will you describe the events that transpired in Florida when you went down to meet Mr. Watson with the 560,000 shares of stock?

A I went to Florida with the stock certificates. How much detail do you want, Mr. Dietz?

Q Excuse me, did you say stock certificate, Mr. Levy?

A I said plural, stock certificates.

THE COURT: Certificates.

Mr. Dietz, I think you should start concentrating on what the witness is saying. If you ask him the question, listen to it.

A (continuing) Mr. Watson, who claimed to be Mr. Watson, met me at the airport and drove me to a motel nearby, this is Tampa, Florida. I believe it was the Causeway Motel. It was at night, so he said, you know, "Get some rest and I will call you in the morning."

So he calls me in the morning and takes me to

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a suite of offices which had the name Suncoast Leasing Corporation on the door, and starts making various phone calls, of which he had me wait outside, outside his office. He comes out very excited and said that he had a private placement for the 560,000 shares at I believe it was $1 or $1.10 a share, I can't remember at the moment, about this European investor who he represents, his dealing through someone in Fort Lauderdale and it was necessary for him to go to Fort Lauderdale immediately to see this person, and then he got a phone call right in the middle of the conversation, and heasked whether the company would be willing to make a private placement for an additional 400,000 shares in addition to the 560,000 at the same price, and I asked him to wait and I would make a phone call and I would see.

Thereupon I called Mr. Barrett, the president of the corporation, and told him about the possibilities of an additional private placement, and while Mr. Barrett had me on the line he called Mr. Hoffman and Mr. Goff on his other lines and after discussing it between us we decided that it would be all right, and I said that to Mr. Watson.

Mr. Watson said that the-- I can't remember exactly -- the associate or the partner, I am not quite

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sure which, of this undisclosed principal, was going to be calling at Pater Watson's office like an hour and a half from then, and it might be necessary for me to go to the transfer agent up in New Jersey, pick the share certificates up, come down again and meet them.

Because of that and because Mr. Watson could not be in two places at one time, he asked me to wait there for the phone call and to do it-- to actually then take a plane to New Jersey, pick the other stock certificates up, and then come back and meet him there.

In the meantime he would go to Fort Lauderdale and he requested that he have the certificates in his hands so that the undisclosed European principal would actually see that a good faith-- that Mr. Watson could deliver what he said, which would be shares of stock certificates of Management Dynamics.

Q Mr. Levy, why was it necessary to bring up these share certificates as evidence of that good faith? Wouldn't a letter of authorization have been sufficient?

A It wasn't my arrangement. It was Mr. Watson's arrangement, and these were the prerequisites that he set about.

Of course, I said that one certificate might do, No. 1, and No. 2, I did suggest a letter of authorization,

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and Mr. Watson told me that the people he was dealing with just would not believe that type of proof. The best proof is the certificates itself.

Q What wasthe purpose, again, of not having legends on the certificates?

A I think I testified to that, but I will repeat.

The purpose specifically is that the European principals that he represented had various dealings with private placements before in the United States and when the time came to remove the legends from the certificate through an exemption of the SEC or through registration, the transfer agents and the companies themselves would sometimes-- probably all the time, he said, be very reluctant to do so, because their private placements dealt in a lot of shares and I guess a lot of shares being freed up at one time would have a very adverse effect upon the trading market, and in the European principal's experience, the transfer agent and the company itself had always tried to delay the freeing up of the unregistered stock, and this delay would result usually in a lawsuit that the European principals would have to bring against the company and the transfer agent, and it would take a year, usually, two years in court, and this is something they did not wish to go through again.

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Q Were the principals of Mr. Watson going to receive Mr. Watson's shares?

A No.

Q What were they going to get, Mr. Levy?

A I have no idea--

MR. GUSRAE: I object, your Honor, in the sense that Mr. Levy testified that there was one principal, as he understands it, the European, and not principals.

MR. DIETZ: If we are going to get into the question as to whether Mr. Levy has testified to Mr. Watson's principal in the singular or the plural, I attempted to introduce various examples from a prior transcript of Mr. Levy's where Mr. Levy referred to Mr. Watson's parties as principals or in other references in the plural.

I will stand ready to offer many examples of those, if your Honor wishes.

THE COURT: As I understand, as I remember, Mr. Levy said that if he used the word plural it was one group. There might be several people, he said, involved, but it was his understanding that it was one group.

Q Mr. Levy, wasn't the program to have Mr. Watson's shares returned and then issue new shares in the name of Watson's principal? Wasn't that the arrangement?

A That was exactly the arrangement, yes.

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Q So what was the purpose, then, in not having a restricted legend on Mr. Watson's certificates, since Mr. Watson's certificates were going to come back to the company anyway?

A Because the exact facsimile of the certificates that the European principal would get would be without legend, and this iswhat the European principal was insisting upon, and what better proof to show than -- that it could be done then by actually doing it in like a dry run with someone else.

Q Did you ever suggest to Mr. Watson that his shares be issued with legends stamped on them and that he be provided a letter of authorization or a statement from Management Dynamics to the effect that when these shares are returned, the shares that would be issued to Watson's principals would not have a legend?

A I don't remember specifically that, but many suggestions were made as to how an easier type arrangement could be done than the one Mr. Watson suggested, but he again said that this was the only way that he could work with the European principals because of experience with other companies.

Q Mr. Levy, what transpired after you gave Mr. Watson the certificates in Florida?

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A I waited the hour and a half, two hours, for the phone call or supposed phone call that was supposed to be made.

I did not receive any phone call but I believe Peter Watson's wife who was acting like a secretary there at the office had a phone call and came in to me, I was reading a newspaper in his office, Mr. Watson's office --

Q Could you keep your voice up, please?

A I was reading a newspaper in Mr. Watson's office when Mrs. Watson came in and said that she had received a phone call that we were waiting for, and that the person had-- who she was speaking to had postponed the negotiations for another two days because of -- I don't really remember what excuse she gave, it was some legitimate-sounding excuse, and whereupon I then-- she then drove me back to my motel room and I waited to hear from Mr. Watson.

I then heard from him late that night, and he said that the European principals had requested additional information on Management Dynamics, and that no negotiations could continue without actually having this additional information.

Q What was the additional information?

A I think he wanted extra copies of the -- I don't

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remember exactly-- the stockholders letter.

Q Are you referring to Exhibits land 2?

A He had Exhibit 1. I think they wanted Exhibit 2. Yes, Exhibit 2.

Q When was your next contact with Mr. Watson?

A He called me the next morning and said that there is no use me waiting there, I should go back and wait to hear from him, back at my home in Cherry Hill, and that-- I believe this was a week-end-- nothing was going to happen until Monday, and I should wait to hear from him on Monday, and I requested to have the stock back, and he said that he was in Fort Lauderdale and for him to come back to Tampa would be very inconvenient, and for me to wait for his phone call on Monday, so I went home.

Q When did you go home?

A Right that morning, I guess, right after he called me.

Q Let's fix some days..

What was the day of the week that you arrived in Florida?

A It must have been the Thursday or Friday, because I remember it was a week-end.

Q When did you return to New Jersey?

A I guess it was that Saturday. Saturday or Sunday.

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I know it wasn't more thantwo days I stayed down there.

Q How many days were you waiting at the motel?

A I was only down there for two days, two and a half days, at most.

Q Did you suggest to Mr. Watson at the time that he took the stock to Fort Lauderdale that the stock could be deposited with a bank either in Tampa or Fort Lauderdale or some other place as an escrow agent so that the stock would be available for inspection but yet it would remain in the custody and control of Management Dynamics?

A You are suggesting that. No.

Q Had you ever done business with Watson before this private placement?

A I had never done business with him, no.

Q Before you agreed to sell 560,000 shares, did you do any background checks on Mr. Watson?

A He came very highly recommended, as I told you before.

Q Who recommended him?

A He was recommended by Mr. Barnholtz, a very dear friend of mine.

Q Did anyone else recommend him?

A Someone recommended Mr. Watson to Mr. Bernholtz.

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Q Who was that?

A It was a broker in North Jersey. Horvath, Mr. Horvath.

Q Did you ever speak with Mr. Horvath about Mr. Watson?

A No.

Q Did you ever speak with anyone else besides Mr. Bernholtz about Mr. Watson's credentials?

A About his credentials, no.

Q Did you ever speak to anyone else besides Mr. Bernholtz about Mr. Watson in an attempt to find out information about Mr. Watson?

A No.

Q Mr. Levy, are you sure you didn't ask-- excuse me.

Do you remember appearing before the Commission on December 7, 1972?

A Yes.

Q Do you remember my asking you questions?

A Yes.

Q Do you remember your giving answers to those questions?

A Yes.

Q Do you remember a reporter being present recording

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the conversation?

A Yes.

Q I am reading now from page 61 of the transcript of that date.

Tell me if youremember this colloquy:

"A Really, I tried. I asked people if they knew him. I am not proud of myself.

"Q Who were the people who knew of him that you asked?

"A No, they didn't. I asked people if they knew, and they didn't. I knew some attorneys in Florida and I called them, and no one ever heard of him.

"Q Did he give you a bank reference?

"A No, didn't ask for one."

Do you remember that exchange, questions and answers?

MR. GUSRAE: Can we just have the rest of that answer?

Mr. Dietz, I suggest that you finish the answer you started to read.

MR. DIETZ: I will continue, if the Court would like.

"A -- to me his only function was an agent to -- I didn't think there was any danger because it was unregistered stock."

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MR. GUSRAE: Thank you.

Q Mr. Levy, is it still your testimony that you didn't check with anyone else about Watson?

A I don't remember. If I said that, maybe I made a few phone calls, but I just don't remember now.

Q While you were waiting in Fort Lauderdale in the motel for Watson's phone call to tell you about the placement of the 560,000 shares, did you have any way of reaching Mr. Watson?

A No, I didn't.

Q Did Mr. Watson ever give you his home phone number?

A No, he didn't.

Q Did he ever give you his home address?

A No.

Q Did he ever give you an address where he had an office?

A Excuse me, I'm sorry. He did give me his home phone number, excuse me. I don't know his address.

Q When did he give you his home phone number?

A I believe it was when he picked me up at the airport. If I may finish my answer --

Q Go ahead-.

A He also gave me the address of his office and

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the phone number of his office.

When I said I could not reach him, he said that the phone number at his home was temporarily disconnected at that time, so I just could not reach him then. But, I mean, at subsequent times, the number was in order.

Q Mr. Levy, once again I am reading from page 61. It is somewhat disjointed, so I will just continue from where I left off.

"Q You gave him how many share certificates?

"A 500,000 or 560,000 at this time.

"Mr. Epstein: At this time. There was more. You gave it to him by hand?

"A Right. Then he came back to me the next day, called me up and said there was a little hitch, that he had to put the stock in escrow at the bank and we would have a closing on Monday, that was over the week-end.

"So I waited and waited and he never called me, and I had no way of getting in touch with him."

Do you remember giving that answer?

MR. GUSRAE: May I ask the purpose of this? Is there a pending question?

MR. DIETZ: Yes. The question is, Mr. Gusrae, that Mr. Levy has just told the Court that he had a couple of phone numbers for Mr. Watson, and I am referring back to

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his testimony before the Commission in December where he said that he was waiting in a motel and he had no way of getting in touch with Watson.

MR. GUSRAE: On that particular day. That is what this testimony says.

THE COURT: It says what?

I beg your pardon.

MR. GUSRAE: This particular testimony says that at that particular moment he had no way of getting a hold of him. It does not say that he could not reach him at any time, any place.

Your Honor, I think this is grossly unfair, the way Mr. Dietz is trying to conduct this examination.

THE COURT: I think that if you-- there are other-- I can't tell because I don't have the transcript in front of me. It does seem to me that if there are portions of that transcript that Mr. Dietz is reading out of context, obviously that is not fair.

But the way I hear it, the way it is being read, he is reading a question that Mr. Levy testified to one thing today and quite another thing on a previous occasion. Not only with respect to the telephone call but also with respect to the whole transaction, conversations.

MR. GUSRAE: I don't know what it means, your

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Honor.

Q Mr. Levy, let's move from the Florida stay.

After you came back to New Jersey from Florida, were you in contact with Mr. Watson at all?

A Yes, he called me.

Q Did you ever call him?

A I am sure that many times I called his office and I am sure he called me many times.

As to that particular time, who called who first, I really can't remember.

Q Do you remember what his office phone number is?

A I gave it to you, Mr. Dietz. I don't have it on me now,nor do I remember it.

Q Do you have it written down anywhere? Maybe in your office back in New Jersey?

A Mr. Dietz, I testified to the phone number. It is in the deposition.

Q I am asking you if you have any recollection now.

A I can hardly remember my own phone number at times, let alone numbers from a year ago.

No, I don't have any recollection whatsoever of his phone now.

MR. DIETZ: Your Honor, so that Mr. Levy's statement does not stand unchallenged, I don't want to burden

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the Court with going through this record, but my review of the record indicates that Mr. Levy never told us what Mr. Watson's phone number is.

Possibly Mr. Gusrae can enlighten us on cross-examination.

MR. GUSRAE: I ask that that last statement by Mr. Dietz be stricken from the record.

THE COURT: All right.

Mr. Dietz, just ask the questions and let's move on.

MR. GUSRAE: I'm sorry, your Honor, I can't hear.

THE COURT: I just told Mr. Dietz to ask questions and let's move on.

Q Mr. Levy, what was the time of day that you usually spoke with Mr. Watson?

MR. GUSRAE: Can we pin this down a little more, your Honor?

Q The time period is from the time the stock was left in Fort Lauderdale until the time that all of the stock was returned some time in January, 1973.

MR. GUSRAE: What time of day? Are we talking about a particular occasion or just during that two-month period?

THE COURT: He made it clear, Mr. Gusrae, that

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he is talking about the two-month period. He just said that.

MR. GUSRAE: He asked the question about what time of day.

THE COURT: What time of day do you usually talk to him. If he doesn't talk to him any particular time of day, he can say so.

MR. GUSRAE: I'm sorry.

A Can I answer it? He would talk to me all different times of the day. A lot of times late at night.

Q Would it be fair to say that most of his conversations with you were late at night?

A If you want to characterize them, I guess -

Q Excuse me?

A A lot of them were late at night, yes.

Q Where was he calling from at that hour, generally?

A Mr. Watson traveled around. I don't know. Various places. I don't remember now where he was calling from. I think Florida.

Q Excuse me?

A I said he traveled around many places, mostly he called me from Florida because that was his home.

Q How do you know that he was calling from Florida?

A Well, in general or specific-- I assumed he was,

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from Florida, he said he was at home. Also a couple of times he would have me call him back and when I called him back, the number I called was his home in Florida, so I presumed he was in Florida.

Q Did he ever call you from Dallas, Texas?

A Yes, I remember he called me from there a couple of times.

Q Did he ever call you from California?

A Yes, I remember one time from California.

Q Do you recall occasions when upon receiving a phone call from Mr. Watson he would ask you to call him back because it cost him too much money?

A He may have said that. I don't recall it now, no.

Q Do you remember receiving any collect phone calls from Mr. Watson?

A Not very many, if any. I have no recollection of that now.

Q Did you ever have to send Mr. Watson money?

A I didn't have to, but he requested some money, and I sent him some money, yes.

Q How much money did you send him?

A I think it was like $350.

Q How about a second time?

A I don't have any independent recollection on that.

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I know that the expense money he asked for was certainly not more than -- it wasn't a very substantial amount, $500, $600. I may have done it two times, one time, I don't remember.

Q Can you describe how this money was sent to Watson?

A Oh, yes, Western Union.

Q In other words, there was an immediate need for it?

A That is speculating as to the reason. He requested some expense money because of all the time he was spending negotiating on our behalf, on behalf of Management Dynamics, with the undisclosed European principal, and, as such, I Western Unioned him the money.

Q Do you recall specifically Mr. Watson telling you that he was negotiating with the same person this entire time?

A Mr. Watson said he had various clients that he was seeing throughout the country, but he was always in phone conversation and negotiation in that respect with the same group of European principals, as far as I know.

Q Do you know whether Mr. Watson offered the stock to any of his other clients?

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A I have no idea.

Q What were the circumstances of the issuance of the additional 400,000 shares?

A When I went home from Tampa, Florida, I received a phone call or I called him and caught him there at the office, and, as I said before, I don't remember which, but he then said that the phone call that I had been waiting for at the office, at his office, earlier had come through and that this group of European principals had approved the additional 400,000 shares, and it will be a combined 960,000 shares private placement for I believe it was a round number of $1 million,and that I believe he was in Dallas, Texas or he was going to be in Dallas, Texas at the end of the week on another matter, and that I could, instead of coming down there, air freight the stock to him there and he would be able to pick it up.

Whereupon I called Mr. Barrett who then called the other directors, put them on a tie line, we had a conference line, a phone tie line, and we-- since we already agreed that the additional 400,000 private placement was all right, I told him the instructions that Mr. Watson had given me and they said "Fine" and for me to go to the transfer agent and give him the letter of authority, get the additional 400,000 shares in the same

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denominations, in the same circumstances as the original 560,000 shares, and then to mail it by way of an airplane, air freight, to where Mr. Watson was going to be.

I did so.

Q Did Watson put these 400,000 shares in escrow with a bank in Dallas?

A I have no idea.

Q Did Mr. Watson ever mention the name of the escrow agents that were holding your company's stock?

A I wasn't aware of any escrow agents--

Q Excuse me?

A I was not aware of any escrow agents holding my company's stock, but if Mr. Watson wanted to put some stock in escrow instead of carrying it around with him, I certainly would not consider it unusual, but he never told me that he had done so nor did he tell me any specific names.

Q All this time you say Mr. Watson was negotiating with one principal?

A As far as I know.

Q Do you remember on December 7, page 63, Mr. Gusrae, this is an answer, my question is:

"Q What bank was that?

"A Again, he was very careful and he would not mention

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any names of any banks.

"By this time I sort of got disillusioned, and the last he called me was this Monday and said he had one pending for all the 900,000 shares.

"Q Wait a second. I thought he already placed 500,000 shares.

"A He claims he did. Then he called back later and said that this deal fell through and he would place it in escrow with someone else because this deal was happening."

MR. GUSRAE: Your Honor, I see that as not inconsistent with anything I have heard either the other day or this morning.

THE COURT: I agree with that. I don't understand that it is inconsistent with anything I have heard either.

MR. DIETZ: It would indicate that Mr. Watson is dealing with another person or persons, your Honor.

MR. GUSRAE: Your Honor, again it talks about escrow, it does not talk about sale--

THE COURT: All right.

Q During the three weeks after leaving Tampa, about how often were you in contact with Mr. Watson?

A I am confused on the time reference.

Excuse me?

Q In the three weeks after you left Tampa, about how

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often were you in telephone contact with Mr. Watson?

A I really don't remember. I know it was at least two or three times.

Q Two or three times in that three-week period or two or three times?

A I guess so -- two or three times in that three-week period. It is just a guess. I really con't remember at this point.

Q Do you remember at page 64 -- Mr. Gusrae --

"Q So for the last three weeks Mr. Watson --

"A He called me every other day and gave me all kinds of stories."

Do you remember being asked that question and giving that answer?

MR. GUSRAE: Your Honor, again I have to object. He is talking about a three-week period. However, his testimony seems to talk about not only the time after Tampa, but a period of time that included this Dallas trip and other trips that were made, on page 64.

Page 64 he talks about Dallas. Los Angeles is spoken about.

I just fail to see the connection. Maybe I am missing something.

MR. DIETZ: Your Honor, I would be glad to accept

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Mr. Gusrae's offer that Mr. Levy was in contact with Mr. Watson every other day during the entire relevant period.

I thought that I was narrowing it down to something smaller in scope.

MR. GUSRAE: That's all I want is the truth about what's happening during a particular period of time.

The question as asked seemed to attempt to impeach Mr. Levy's testimony as inconsistent.

THE COURT: The initial question was during the three-week period after Tampa, how many times were you in contact with him, and he said, "I don't know, two or three times."

The answer to that question is not limited to any three-week period, but I gather after Tampa how many times were you in contact with Watson, and he says every other day.

MR. GUSRAE: No, your Honor, that is not the way I read this testimony.

THE COURT: Read it then. What does it say?

MR. GUSRAE: It is about a four or five-page summary.

THE COURT: Of what? He says he is in contact with the man every other day. That is the substance of what he says, isn't it?

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MR. GUSRAE: It does not indicate that during that entire period of time, after he returned from Tampa, during a three-week period, he spoke with him every other day.

I don't know what period of time he was in touch with him every other day.

THE COURT: He said every other day. On the witness stand he said two or three times.

It certainly is an inconsistency that ought to be clarified. If there is an overlap of the period that he is testifying to there and what he testified to on the witness stand --

MR. GUSRAE: I am not sure. He may have been talking about the two or three-week period after he returned from Tampa --

THE COURT: We are talking about the three-week period from the time he returned from Tampa. That is what the question involved.

MR. GUSRAE: What I am suggesting is that perhaps during that three-week period he was in touch with him two or three times and then may have been in touch with him every other day.

THE COURT: He does not limit it. He is talking about -- he does not limit it at all. He is talking about

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the period-- I don't know what the scope is. The period seems to be overlapping.

THE WITNESS: Can I answer the question?

THE COURT: Yes.

Q Mr. Levy -- yes, do you want to make a statement?

A I thought I was going to answer the question.

THE COURT: You have already answered the question.

THE WITNESS: No, I don't think so, your Honor.

THE COURT: You answered that question that was pending, -- you can answer that question that is pending before you; did you make those statements in answer to those questions? That is the pending question.

THE WITNESS: The answer to that question is, if I did make that answer, as apparently I did, I must have misunderstood the question, because at no time did he call me two or three times a day or such a frequent --

THE COURT: You didn't say two or three times a day, Mr. Levy. You said every other day.

THE WITNESS: No, I never even got an every other day phone call from him.

THE COURT: Your answer before the Commission was that you were in contact with him every other day.

THE WITNESS: And I am saying that if I did make

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such an answer, as apparently I did, I must have misunderstood his question at that point, because that is not my recollection then or now.

Q Mr. Levy, would you be able to characterize the frequency of the telephone calls that came at night? Were they rare, frequent, often?

MR. GUSRAE: Your Honor, is this really relevant?

MR. DIETZ: Yes, it is, Mr. Gusrae.

MR. GUSRAE: I think we should let the judge rule on it.

THE COURT: I don't know. My problem with this whole darn question is I frankly don't understand it. I am prepared to be enlightened, but I don't know what it's all about.

What he did was either in violation of the law or it wasn't. Whether the calls were at night, how frequent they were, what was his motivation, I don't know how important that is.

MR. DIETZ: Your Honor, we are trying to establish the sort of business relationship that Mr. Levy had with Mr. Watson, the person that he had entrusted with 960,000 shares of his company's stock.

That is the only purpose.

THE COURT: What difference does it make in the

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business relationship whether he calls him at midnight or he calls him at 6:00 a.m.? Does that make the business relationship less real?

MR. DIETZ: No, not necessarily, your Honor, but Mr. Levy has --

THE COURT: You mean it would be more business-like if he called him between 9:00 and 5:00?

MR. DIETZ: Mr. Levy has testified before the Commission that Mr. Watson always called him late at night so that Mr. Levy wasn't quite sure whether he was coherent enough to remember exactly what transpired on the telephone conversations.

That I think is relevant, if business is conducted waking up one party or the other.

MR.GUSRAE: Your Honor, I ask that that statement be stricken, please.

THE COURT: I don't see where that is going to help. That is not inconsistent with anything he said up to this point. He testified he heard from the man at night. He hasn't said that he woke him up and he was not coherent, because you have not asked him that question yet.

Q Mr. Levy, through December of lastyear, have you ever received legal fees from Management Dynamics?

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A Which year?

Q Last year.

A You mean in the past year since December of --

Q Have you ever received legal fees from Management Dynamics up to December of 1972?

A Yes.

Q In December of 1972, were there legal fees owing to you, unpaid?

A Yes.

Q If the sale through Watson had been successful, would you have been paid your legal fees?

MR.GUSRAE: Your Honor, I object to that question.

THE COURT: That objection is sustained.

How is he going to know that? Does he know that?

MR. DIETZ: Yes, he testified, yes, he did.

MR. GUSRAE: Your Honor, there is no basis in this courtroom for that question.

MR. DIETZ: Yes. The point that I am attempting to establish, your Honor, is Mr. Levy's own motivations in doing what he did.

MR. GUSRAE: I still have not figured out what he has done.

THE COURT: Why don't you seek to establish that

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by asking him proper questions?

Q What was your motivation, if any, in seeing that the private placement was successful?

MR. GUSRAE: I object, form of the question, amongst other things.

THE COURT: I beg your pardon?

MR. GUSRAE: I object to the form of the question amongst other things.

THE COURT: I suppose he could answer what his motivations were, if he wants to. It is up to him.

MR. GUSRAE: Your Honor, to ask what was his motivation -- I didn't even hear the rest of it.

THE COURT: I beg your pardon?

MR. GUSRAE: The question is what was his motivation.

THE COURT: Yes.

MR. GUSRAE: Can I have the rest of that question? I didn't get the rest of it.

THE COURT: Then what are you objecting about? If you didn't get the question, how can you object?

MR. GUSRAE: He can't ask about his motivation with respect to something that has not been established here.

THE COURT: It has been established that he gave

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Mr. Watson this block of stock for private placement.

He is asking what was his motivation for doing that. He is probably the only person who can tell us that, isn't he?

All right, overruled.

I don't think we are going to get any illuminating answer for Mr. Dietz, but, in any event, he can ask it.

A To infuse a large amount of private equity capital into the corporation.

Q Would this help the company?

A I think that is self-evident. Of course.

Q Would the infusion of new capital thus help you indirectly because you are a large stockholder in Management Dynamics?

MR. GUSRAE: I object to that. That is not an issue here.

THE COURT: I don't think you have any objection to that. The whole point about it is the question is -- there is no real objection to the question. The question is so self-evident in regard to -- it is ridiculous to ask him that kind of question.

What do you expect him to say?

THE WITNESS: Do I answer?

THE COURT: You can answer, if you want.

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A As for being a huge stockholder, I had fifty some thousand shares out of I think it was four million. Yes, I would be indirectly helped because the company would be helped.

xx (Plaintiff's Exhibit 9 marked for identification.)

Q I am handing you Plaintiff's Exhibit 9 for identification.

Have you ever seen that document before?

A Yes.

MR. GUSRAE: May I see it?

(Pause.)

THE COURT: Come on, gentlemen, let's move with this case.

All right, let's move.

Q Mr. Levy, would you describe Plaintiff's Exhibit 9, please?

A Yes. It is a list of all the unregistered stockholders, I say unregistered, the restricted stockholders, that had obtained their shares since the beginning of the company, as it was a private company earlier in 1969 until the present.

This list was prepared at your request and I prepared it myself, and I had my secretary type it out.

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THE COURT: If it is not clear, it is your client, you have a right to ask him to clarify it on cross-examination.

Proceed, Mr. Dietz.

Q Would you proceed, please?

A It originally started out, Mr. Langenauer called me and asked me --

Q Which Mr. Langenauer is this, sir?

A Mr. Allen Langenauer, of Global Securities, called me and asked me if I would check the market in a stock called Management Dynamics, which I did.

I gave him the price it was quoted to me on the phone by the other trader.

He said, "Do you think you could buy any for less," and I said, "No." "Why?"

He said "The price you gave me is even cheaper than the price that I have been getting quoted."

He said, "I have been getting quotes at a quarter of a point, 3/8 of a point higher than what you just quoted me. See if you can buy me a couple of hundred shares at that price that they just quoted you."

So I said all right, I would, and I went back and I tried, and I was successful, and I bought stock at the price that he indicated he would like me to buy stock at.

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I believe my first trade, your records will show, was 250 shares.

So in the conversation I asked him, "What will I do if I buy it?"

He said, "I will buy it from you. I will give you an eighth of a point because that's still less than what it would cost me."

So I said "Fine."

So I bought the 250 shares and I turned around and I sold it to him and I made-- the firm made an 8th of a point gross profit.

Q Did this pattern continue through the period indicated on Exhibit 10?

A I believe so, yes.

THE COURT: What period is that?

MR. DIETZ: That would be from Setpember 1972, your Honor, to December 8, 1972.

Q Did there come a time when you entered quotations in the pink sheets on behalf of Fairfield?

A In the stock of Management Dynamics?

Q Yes, that's right.

A Yes, sir.

Q Did you do this because Langenauer asked you to go into the sheets for him?

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A No, sir.

Q Why did you go into the sheets?

A Tp see if I could buy stock even cheaper on the bid rather than buying it on the asked.

Q Are you sure Global never asked you to go into the sheets?

A He might have mentioned in conversation, "If you were in the sheets and you bought stock heaper, I would take it from you," and I would make more money and he would make more money, because he would still be buying it at far less if I got it on the bid rather than the ask.

I don't recall exactly. I don't recall him saying "You got to go into the sheets," or anything like that. It was like a general conversation over a period of many weeks, which made sense, if I could buy stock on the bid rather than the asked, he would be getting it much cheaper and so would his people.

Q Do you remember coming down to the Commission on February 20th and being interviewed by me?

A I sure do.

Q Do you remember being asked this question --

MR. JAFFE: Mr. Dietz, would you please furnish me --

MR. DIETZ: I will share my transcript with you.

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Q "Q Did Global ask you to go into the sheets?

"A Did Global ask me to go into the sheets?

"Q Yes.

"A Yes, they did."

A Like I say, he might have suggested it would be a good idea. Nobody forced me. I was my own boss.

Q But you were in the sheets on behalf of Global, weren't you?

A I was in the sheets to buy stock. If I bought it I was going to sell it to Global. I was in there on behalf of myself, to make money.

Q Was it ever your intention to maintain a position in Management Dynamics stock?

A No, sir. I had no knowledge of, you know, no real interest in the stock. To me it was just a number to trade.

Q All the stock that you got went out to Global, is that right?

A I would say --

Q With the exception of --

A I would say 95% of it, yes, sir.

Q Do you remember on page 43 my asking you this question:

"Q Now, when you went into the sheets, you went in

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at his request, didn't you?"

That refers to Global, the "his."

"A That is correct."

Do you rememberthat?

A I don't recall it. But it makes sense. I would not go in there to accumulate stock to keep for myself. I mean, I have to have a place for it.

Q During the time that you were submitting quotations to the pink sheets, did you have any information about Management Dynamics, the company?

A I had literature that had been put out by the company, yes, in my file.

Q Where did you get that literature?

A From Mr. Langenauer.

Q Did you get any from the company?

A I may have. I really don't recall if they mailed me something, too. He said he was going to tell the company, you know, to send me releases as they went out, and I don't remember whether they came directly from Mr. Langenauer or they came from the company. I had them in my file.

Q Can you describe to us what was in your file during the period from September 29 to the 8th of December?

A There were a couple of press releases. I really

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don't recall what was in there.

As it came in, I would glance at it and put it in the file. I think we turned the file over to you people.

Q I would like to show you Plaintiff's Exhibits 1 and 2.

Do you recollect whether they were in your file?

A I believe they were.

Q Did you know at the time you were trading Management Dynamics stock whether it was registered with the SEC?

A No, sir. I just made an assumption by the fact that it was in the pink sheets and I had listed stocks in thepink sheets before and sent them a registration statement and everything, that they always made me go through a lot of aggravation to make sure the stock was registered, and I figured everybody else had the same course to follow.

So I just assumed since it was in the pink sheets and trading, it was registered with the SEC.

Q Did you ever have any communications with the company Management Dynamics?

A No, sir. One day Mr. Langenauer stopped by with some fellow he said was from the company, and they just said hello and left. I mean, that was my -- he was in the

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area.

Q What was the basis for the price that you had in the pink sheets?

A What was the basis of the prices?

Q Yes.

A What the market was.

Q Was there any basis in the affairs of the company?

A I don't understand your question.

Q Did you base the stock-- your prices in the pink sheets, on the affairs of the company at all?

A No, sir.

MR.JAFFE: Your Honor, I would like to indicate that Mr. Brennan has indicated and testified to the fact that he-- the quotes related to what the market was in the pink sheets, which is the wholesale over-the-counter market prices between dealers.

He has also indicated he had no communication with the company, so I don't understand the purpose of the question. It's been answered.

THE COURT: I understand the purpose of the question. The purpose of the question is very clear. The question is whether he is going to get any further answer is something else.

Objection overruled, if there was an objection.

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MR. GUSRAE: Your Honor, I have a further objection. The question is did he base his quotes on the affairs of the company.

I'd like to know what that term "affairs" means .

THE COURT: It is --

MR. GUSRAE: If he means whether or not they were losing money --

THE COURT: If Mr.Brennan does not understand what the question means, he can ask before he answers.

THE WITNESS: Could I have a clarification of what you mean by "affairs"?

Q I mean did you base your quotation on the financial condition of the company?

A No.

Q Did you base your quotes on the success or failure of the company?

A No.

Q Did you base your quotes on the management of the company?

A No.

I think you would find most traders on Wall Street --

THE COURT: Answer the question.

THE WITNESS: No, it is based on supply and

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demand for the stock.

Q Was it based on anything else?

A No, sir.

MR. DIETZ: We have no further questions, your Honor.

THE COURT: Mr. Jaffe, do you have any questions?

MR. JAFFE: At this point, your Honor, I have no questions, but I'd like to reserve the right to call him--

THE COURT: Do you have any questions?

MR. GUSRAE: I have several questions.

CROSS-EXAMINATION

BY MR. GUSRAE:

Q Mr. Brennan, would you say that it is custom and usage in the securities industry that when you trade a security, theprice at which that security trades is based strictly upon the supply and demand for that stock?

A Yes.

Q That is the way most issues are traded, is that correct?

A Yes, sir.

Q Are you familiar with a monthly guide put out by Standard & Poor's relating to all stocks?

A Yes, I have seen them. Most of your member firms

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Q Was there any discussion between you and Mr. Malana regarding why Mayflower was going to trade the stock?

A No. I had told him why I wanted to go into the stock, to trade it. I had received a call from a customer of mine, this Mr. Joseph Pettineo, who I showed you a confirmation to purchase 300 shares.

I went out as an agent andpurchased the stock. A few weeks later I had spoken to Mr. Langenauer and he also had told me that he was a potential buyer in the stock. Therefore, based on both of these two people's recommendations, I said -- you know, I traded the stock.

Q How did you come to speak with Mr. Langenauer?

A He called me up.

Q Did he call you specifically about this stock?

A Well, I have spoken to him a few times because we did work together at M. Bernstein. I don't believe it was specifically about Management at the time. But when he mentioned to me the stock, it did occur to me-- I was familiar with the stock because of Mr. Joseph Pettineo.

Q When you first submitted quotations in the pink sheets, did you have any information about Management Dynamics?

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A Yes, I did.

Q What did you have?

A News releases, financial reports, complete due diligence file which is necessary before you trade a stock.

Q Where did you get this information?

A Mr. Langenauer.

Q Showing you Plaintiff's Exhibit 1 and Exhibit 2, were these documents in your due diligence file?

A Yes.

Q Did you have any other information from the company in your file?

A I believe I had some reports dating back to 1970.

Q During September did you ever contact the company to get some information?

A No, I did not.

Q Did you ever write to the company?

A No, I don't believe so.

Q Do you remember coming down to the Commission on March 6th to testify?

A Yes. I don't remember the exact date, but I do remember coming down to testify.

Q Do you remember that there was a reporter taking down your answers?

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A Yes.

Q Do you remember my asking you this question:

"Q When did Mr. Langenauer call you?

"A This was about a week later, I'd say, a few days later. I asked him if he would send me some information on the company. I'd like to look at it. And he sent me some due diligence. I wrote the company a few times."

"Q Did the company respond to your requests?

"A No. It was an older address. It wasn't --

"Q Your letters came back to you?

"A Right. For any latest developments on the company, this was, and I found out that he was a pioneer of the stock.

"Q How did you find that out?

"A He told me." "He" referring, I assume, to Mr. Langenauer, is that so?

A When you said did I write the company, I thought you meant did I receive a response. I did send them a letter requesting a due diligence, but it came back "address unknown" or something, so I really didn't have any correspondence to that effect.

Q Did that raise any questions in your mind as to whether the company was in existence?

MR. GUSRAE: Your Honor, I object tothat.

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THE COURT: Overruled.

A No, because as a trader we usually use what they call a blue book to get addresses of companies, public corporations. Many times we use this as a reference to write a company, asking for financials. Many times they come back "change of address" or "address unknown."

Q Did you ever make contact with Management Dynamics?

A The company?

Q Yes.

A No.

Q Do you remember any of the things that Mr. Langenauer told you about Management Dynamics?

A Only basically what was printed in the newest releases. Building of apartments, apartment developments, land development.

Q Did Mr. Langenauer ever mention a gentleman by the name of William Levy?

A No. Excuse me. Yes. I'm sorry.

Q Would you tell us about what he said?

MR. GUSRAE: Your Honor, I object to this testimony. I see no relevancy as to the allegations in this complaint regarding what Mr. Langenauer may have said to this gentleman.

THE COURT: I don't understand it either.

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What difference does that make? What difference does it make what Mr. Langenauer told him about Mr. Levy?

MR. DIETZ: Well, that Mr. Langenauer believed, at any rate, that Mr. Levy was a key element in the company, been responsible for its success.

THE COURT: Didn't you have Mr. Langenauer on the witness stand?

MR. DIETZ: Yes.

THE COURT: If he believed it, if you can get it out of Mr. Langenauer, why should we get it as what is now second-hand sources.

You had him on the stand. If you didn't ask him that question, then call him back and ask him the question.

Q Were your conversations with Allen or David Langenauer?

A Mostly Allen.

MR. DIETZ: We had the father, your honor, on the stand. This is the son that these conversations were with.

THE COURT: Isn't the son available?

MR. DIETZ: Yes. We will call him.

Q Did you know whether Global was a buyer of the stock?

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A Oh, yes. It definitely was a buyer of the stock.

Q Was it ever your intention to maintain a position in Management Dynamics?

A Only when I was given a verbal open order in the stock.

Q An open order by whom?

A Global Securities. As a trader, we take open orders in stocks.

Q What was the basis for the quotations that you submitted to the pink sheets?

A The bid in the stock. The bids that were around from the street.

Q Was there any basis on the performance of Management Dynamics?

A I wouldn't know.

MR. GUSRAE: Your Honor, I have to object because I just don't know what the term "performance" means.

THE COURT: All right.

Q Did you base your quotation in any way on the profits or losses of Management Dynamics?

A No.

Q Did you base your quotations on the management of Management Dynamics?

A No.

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Q Did you base your quotations on the assets or liabilities of Management Dynamics?

A No.

Q Did you base your quotations on any factor other than the bid and offers that were in the street?

A Yes -- no. That's the only thing I based it on was the bid and offer, supply and demand.

Q Did you ever inquire whether Management Dynamics stock was registered with the Securities and Exchange Commission?

A No, I did not.

MR. DIETZ: I have no further questions.

THE COURT: Any questions?

MR. GUSRAE: I just have one.

CROSS-EXAMINATION

BY MR. GUSRAE:

Q Is it true that all bids and asks of the securities that you have been trading are based on the supply and demand of that stock?

MR. DIETZ: Objection, your Honor. The basis of the objection is that he would have to be aware of -- could we approach the bench?

THE COURT: Why do you have to approach the bench? There's nobody here.

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MR. DIETZ: He would have to be aware of the basis of all traders in the street --

THE COURT: He is not asking him that. He is asking him what he bases his quotes on, whether he bases those on supply and demand.

Is that the question?

MR. GUSRAE: What he does.

MR.DIETZ: I'm sorry, your Honor. I understood Mr. Gusrae otherwise.

A Can you repeat the question.

(Question read.)

A Yes.

Q It is not based on the management of the company or the profit and loss of the company, on anything to do with the affairs of the company?

A Absolutely not.

THE COURT: I am not sure of that. Isn't -- some of the informationwith regard to supply and demand, isn't that based upon some of these other factors?

THE WITNESS: Not very often, your Honor. My experiance with trading stocks is earnings and management has very little todo with it.

MR. BRECHERT: May I?

THE COURT: No, you are not asking any questions.

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Q What was the basis of this brief?

A Prior to trading the stock, as I said, I did check the pink sheets. There were other brokerage firms trading the stock. I followed the activity of the stock for about a week or so before actually entering my own market inthe stock. I checkedwith the National Stock Summary and found that the stock had been listed in the stock summary and traded as early as, I believe, April of 1970.

Q When did you first obtain any written information from Management Dynamics?

A I believe August 15, 1972 is the first letter I received.

Q Prior to that time, as I understand it, you didn't have any information about the company in your files, is that so?

A I am not sure. I would have to see the file to see what documentation is in it.

Q Certainly you have reviewed your files recently, haven't you, in Management Dynamics?

A Yes, sir. I didn't memorize the dates of each and every letter in the file.

Q Did you see anything prior to a letter of August 15, 1972?

A I don't recall, sir.

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Q Would Plaintiff's Exhibit 1 be that letter?

A This is the letter, yes, sir.

Q And Plaintiff's Exhibit 2, was that also in your file?

A Correct, sir.

Q Do you remember anything else that was in your file?

A There were other -- another letter or two, sir. I don't recall. There was other documentation, I believe, in the file.

MR. DIETZ: Mr. Frank, do you have any of that in the courtroom?

(Pause.)

(Plaintiff's Exhibits 12, 13 and 14 were marked for identification.)

Q Mr. Nadino, I am going to show you what's been marked as Plaintiff's Exhibits 12, 13 and 14 for identification. Would you describe Exhibit 12, please?

A Exhibit 12 is the prepared postcard that I spoke of with A. J. Carno's letterhead on it requesting a due diligence file, prospectus, annual report and write-up.

Q You sent a copy of Exhibit 12 to the company but it was returned?

A I don't remember it being returned, sir. I believe there was no response.

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Q Would you describe Exhibit 13, please?

A Exhibit 13 are photostats of pages from the National Stock Summary showing markets in Management Dynamics back in April, 1970 right through September of 1972.

Q Would you describe Exhibit 14, please?

A Exhibit 14 is a letter on the letterhead of Filor, Bullard and Smyth, subject, Management Dynamics.

Q What's the date of that letter?

A November 28, 1972.

Q When was it received by Carno?

A That, sir, I would be unable to tell you. I don't recall. It obviously isn't time-clocked.

Q Was there anything else besides Exhibits 1, 2, 13 and 14 in your due diligence file during the time that you were trading Management Dynamics stock?

A Those would be all the items that I remember.

MR. DIETZ: Mr. Frank, we served upon A. J. Carno & Company a subpoena for the production of all of the due diligence material. Do you know of any additional material?

MR. FRANK: The witness has testified.

MR. DIETZ: Plaintiff offers Exhibits 13 and 14 into evidence.

MR. FRANK: Your Honor, we have no objection to Exhibits 13 and 14 on behalf of defendants Nadino and Carno.

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THE COURT: All right.

MR. GUSRAE: I have no objection.

*** (Plaintiff's Exhibits 13 and 14 were received in evidence.

Q When you first submitted a quotation to the National Quotation pink sheets, did you make any inquiry of the SEC whether Management Dynamics stock was registered?

MR. FRANK: Objection, your Honor. I don't think it is incumbent upon him. I think the question is wholly improper.

THE COURT: Objection overruled.

A Would you repeat the question, please?

Q Did you make any inquiry to discover whether there was any initial registration statement filed with the SEC in connection with the initial distribution of shares from Management Dynamics to the public?

A I believe not, sir.

Q Is there any qualification in your answer, sir?

A Well, I was wondering if you meant contacting the SEC directly.

Q I will break it down for you. Did you ever contact the SEC directly?

A No, sir.

Q Did you ever contact any other source to see if

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there was a registration statement filed?

A Only those sources which I previously mentioned.

Q Did you make any effort to see if the stock was registered under the Securities & Exchange Act of 1934?

A No sir, other than those precautions I previously took.

Q Looking at Exhibit 11 in evidence, the first quote here is on January 5, is it not, the first trade that you had there?

A Yes.

Q What's the price?

A An eighth of a dollar.

Q What was the basis for that price?

THE COURT: Is this the first trade in any of the stock?

MR. DIETZ: This is the first trade on that sheet, your Honor.

THE COURT: That's in January, 1971?

MR. DIETZ: Yes -- '72.

MR. FRANK: If your Honor please, that sheet covers just the calendar year 1972. There is nothing there for any other period.

THE COURT: You said January. I didn't know what year it was. All right.

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A I would have to see my trading ledgers before this date to -- obviously, supply and demand, if I purchased stock earlier at a higher price and the market had gone down, that would probably be the reason for a bid of an eighth.

Q Was there any basis for that price in the affairs of the company, Management Dynamics?

MR. FRANK: I object, your Honor. I think that calls for a conclusion beyond the witness.

THE COURT: I think that is true. Objection sustained.

Q Did you base the one eighth price at all on the profits of Management Dynamics?

MR. FRANK: Same objection. I think he answered what he based it on.

THE COURT: No. That question is not objectionable. He asked him what he did. That is not objectionable.

A Would you repeat the question, please, sir?

Q Did you base that 1/8 price on the profits of Management Dynamics?

A No, sir. I based it on previous market activity.

Q Did you base it on anything else besides previous market activity?

A No, sir.

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Q Was there any other basis than market activity for any subsequent prices of the stock that you traded up?

A No, sir.

Q Was there any basis besides market activity for any submissions of quotations that Carno made in the pink sheets?

A Referring to initial quotation, sir?

Q No.

A Or subsequent?

Q Quotations --

A No, sir.

Q Excuse me?

A No. The answer to your question would be no.

Q Who submitted the cards to the pink sheet on behalf of Carno?

A I would have submitted the cards, sir.

Q Were they reviewed by anyone?

A No, sir.

Q From September of 1972 until December of 1972, was there a brokerage firm that was known to you as a buyer of the stock?

A Yes, sir.

Q What was that firm?

A There were several firms who were buying the stock.

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Q Who was the principal buyer, if you could say?

A Most of my sales were to Global Securities.

Q From September to December did you attempt to accumulate any position in Management Dynamics?

A Would you explain that question for me, sir?

Q Did you attempt to maintain an inventory of shares?

A No, sir. My inventory is more or less dictated by the customers or the other brokerage firms who buy and sell stock to and from me.

Q Did you ever get any calls from brokers out of the state offering you large blocks of Management Dynamics?

A Yes, sir.

MR. FRANK: If your Honor please, as much as I hate to interfere with Mr. Dietz's questioning, I must object unless we limit this question to the time period covered in the complaint. I certainly feel that it would be highly improper to permit him to go into other time periods.

THE COURT: All right.

Q From the end of October through the suspension of trading, did you ever get such phone calls?

A One, sir.

Q Could you tell us about that phone call, please?

A I don't recall exactly when I received the call. It was from an individual or broker in California offering

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a considerably large block of stock for sale.

Q Did he offer you about 100,000 shares?

A Exactly, sir.

Q What did he tell you about the stock?

MR. GUSRAE: Your Honor, who is this individual that called? We have no identification regarding who called. How can we go into the substance of the conversation on something we don't even know.

THE COURT: Mr. Dietz?

Q Do you remember who the party -- what the party's name was on the other side?

A I am afraid that all I can say about the party, the name as I recall was Buzz. He did not have a last name, he did not and does not have an affiliation with any brokerage firm at the time.

Q Had you ever spoken with this person before?

A No, sir.

Q Was he calling from a brokerage firm in California?

A As I recall, yes, sir.

Q Was he calling from the office of Robert Scott?

A That might have been the firm, sir. I really don't remember, at this time.

Q What did he tell you and what did you tell him?

MR. GUSRAE: Your Honor, I object. Total hearsay

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as far as this cause of action goes.

THE COURT: What's the basis of getting -- you know, what's your theory?

MR. DIETZ: Excuse me?

THE COURT: What is your theory? Here is somebody who as far as I know has no connection with any of these people. What's the theory of your getting a conversation with this man --

MR. DIETZ: Your Honor, it will come out in the conversation. It concerns the Watson shares.

MR. GUSRAE: Your Honor, I don't care what it concerns. I'm sorry. I believe it is improper to allow the substance of any conversation where we have an unidentified caller who is not a party to this action.

THE COURT: That's why I want to know your theory, Mr. Dietz. Don't look over there, I am asking you, what is your theory for getting this evidence in.

MR. DIETZ: The theory, your Honor, is that Mr. Nadino is testifying as to a conversation that he had with this person and I think that he is competent to testify to what he said and what the person on the other end of the telephone told him.

Insofar that it is hearsay, your Honor can certainly give it whatever weight he believes is merited, but we are

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at a preliminary stage, and I believe that hearsay is acceptable.

MR. GUSRAE: Your Honor, I must take exception to Mr. Dietz's statement. No way. I don't care at what stage, hearsay is hearsay is hearsay, and there is no way that I can cross examine anyone regarding this conversation.

THE COURT: I think that the testimony today, this morning, from Mr. Levy, was that some of that stock was in California.

MR. GUSRAE: Your Honor, I'm sorry to disagree with you, but that is not the testimony, and I will place Mr. Levy on the stand with respect to that right now.

MR. DIETZ: Your Honor, I think that you are correct in your recollection that Mr. Levy was told that several tens of thousands of shares were in a bank --

THE COURT: I believe that was so.

MR. DIETZ: Yes.

THE COURT: The objection was raised that somebody else told him that. The question was, was it California?

MR. GUSRAE: There were conversations, I believe --

THE COURT: Allright, that's the same thing.

MR. GUSRAE: It is pretty tenuous, your Honor.

THE COURT: It isn't tenuous.

MR. GUSRAE: To allow this call in?

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THE COURT: I think that the issue here, it seems to me, as far as I can recall, is that Mr. Levy delivered to someone in Florida 960,000 shares of restricted stock without any legend on that stock indicating the restriction, and we have already found that some of that stock was pledged or was collateral at some point in a New York bank, and -- all right, the objection is overruled. I will allow it.

MR. GUSRAE: Your Honor, can I please make a statement at this time?

THE COURT: By all means, surely.

MR. GUSRAE: Your Honor, with respect to any sort of "pledge", that's all been hearsay testimony. We agreed on that. You are now allowing more hearsay testimony regarding some kind of conversation which Mr. Dietz has represented involves some "Watson stock." The whole case, your Honor, depends on whether or not this man Watson ever offered or sold any of the 960,000 shares of stock.

The government has yet to produce Watson. They wouldn't produce him. Now they are trying to prove their case through hearsay evidence of some sort of pledge, and now through a phone call that this brokerage house may have been offered some Watson stock by somebody I don't even know.

THE COURT: All right. I think that you are making a good point, but I am going to let the evidence in.

All right.

Q Mr. Nadino, can you tell us, please, what was said on this telephone conversation?

A Again, as best I can recall, it did happen sometime ago, I was speaking to an individual whom I don't know and have never ever spoken to before or after, introduced himself by the name of Buzz. He asked me a market, what the present market was in the stock of Management Dynamics. I quoted him that price. He asked me if it was a sizeable market. I stated that I could probably perform as well as any of my competitors in the sheets.

He revealed that he had ultimately 100,000 shares for sale. I think he started by telling me five or ten thousand shares, but ultimately 100,000 shares. I then requested -- I informed him that the stock had never traded in that kind of size and requested that he gave me the certificate numbers of that stock. The individual did that. I then contacted the transfer agent.

Q Do you remember what the name on the stock certificates was?

MR. GUSRAE: I'm sorry, I may have missed something, but did he answer that he received stock certificates?

THE COURT: No. He was asked did he remember what the name was on the certificates.

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MR. GUSRAE: For the names on the stock certificates? He had not received --

THE COURT: Isn't that what you said?

MR. DIETZ: That's right.

Q Were you told whether there was a name on these certificates?

A At this time I don't remember if this gentleman, Buzz, whoever, or the transfer agent had given me a name for those particular certificates. The name was P. J. Watson.

Q Do you remember the serial numbers that were told to you by the person in California that were on the certificates?

A That I don't recall right offhand, no, sir.

Q Do you remember coming down to the Commission? I'd like to show you your testimony at the Commission. Does this refresh your recollection as to what the serial numbers were?

A Again, I will assume that that is what I said at that hearing.

Q What did you say then?

A Do you want me to read verbatim, the statement?

Q No. You can testify as to -- if this refreshes your recollection.

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requires brokers to have certain minimal information in their possession before --

THE COURT: What difference does it make? If this rule applies to Mr. Nadino in regard to this, then all right. Why ask him about that? I don't understand what you are doing. Why ask him about something, if it applies here? What difference does it make if he is familiar with it or not? If it governs his activities, it governs his activities.

MR. DIETZ: We have no further question, your Honor.

CROSS EXAMINATION

BY MR. GUSRAE:

Q Mr. Nadino, with respect to this phone call that you received from, you say it was California --

A I was told it was California.

Q You were told? So you don't know where the phone call really came from, do you?

A I would have to say not, sir.

Q Do people often call you up and attempt to test your market in the sense of saying the have a large number of shares of any security to see how firm your market is?

A It is done.

Q It is done?

A Yes, sir.

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Q He certainly did not say he was Mr. Peter Watson, did he?

A No, sir.

Q He didn't volunteer that and he didn't volunteer anything with respect to how he got the shares, I suppose?

A No, sir.

Q As a matter of fact, he never indicated to you that he owned the shares, did he?

A No.

THE COURT: The serial numbers he gave you, you found later to be registered to Mr. Watson's name, is that correct?

THE WITNESS: As I recall, yes.

MR. GUSRAE: I have no further questions. However, I do once again renew my objection as to allowing --

THE COURT: You don't have to renew it. It is clear. Mr. Frank, do you want to ask any questions?

MR. FRANK: Mark this, please.

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(Defendant Nadino Exhibit A-1 was marked for identification.)

(Defendant Nadino Exhibit A-2 was marked for identification.)

CROSS EXAMINATION

BY MR. FRANK:

Q Mr. Nadino, I show you Defendant's A-1 for identification and ask you, will you tell the Court what these documents represent?

A These are my personal trading ledgers which were in 1971 kept daily by myself.

Q Do those records reflect your trading for the year 1971 in the stock of Management Dynamics?

A Through the period June 9 through October 25.

Q I show you this Schedule A-2 for identification and ask you whether or not that is a summary of the trading in Management Dynamics by A. J. Carno for the period you have just testified to?

A Yes, sir.

MR. FRANK: I now offer Exhibit A-2 in evidence, your Honor.

MR. DIETZ: Your Honor, looking at Defendant's A-1, it is nowhere indicated that these documents relate to Management Dynamics. Point two, the time period covered,

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6/9/71 to 10/25/71 I think is not relevant to the issues here.

MR. FRANK: If your Honor please, Mr. Dietz on direct examination made a big question as to when Mr. Nadino started trading this stock. It seems to me that it is relevant for cross examination if it is relevant for direct.

THE COURT: He indicated that he started trading in the stock in June of 1971, I believe.

MR. DIETZ: These documents really don't shed any light upon the issues here which concern essentially trading from August of '72 through December of '72. Maybe Mr. Frank could enlighten the Court and I will withdraw my objection --

MR. FRANK: If your Honor please, we have tried to make it easy by taking all of the trader's entire records in all securities, which is Exhibit A-1, and reduce it to a simple sheet, A-2, which represents Management Dynamics' trades only.

Were we to examine this, we would cull out the information which appears on A-2. I also would like to avoid, your Honor, brining some 40 I.B.M. books from the records of A. J. Carno to cull the Management Dynamics trading which also appears, your Honor, on part of A-2 as well as in the schedule which is previously offered in evidence.

There is no sense in bringing 40 volumes, your Honor,

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and going through them.

THE COURT: You are correct in that. Does this purport to be all of the trading in Management stock by Carno?

MR. FRANK: By the securities trader, Mr. Nadino, your Honor. This is his trading sheet which he keeps at his desk. As he makes a trade, he records the name of the stock and the price at which he trades it. That is those records. From those records we have culled the 1971 transactions in Management Dynamics.

THE COURT: That's just 1971?

MR. FRANK: Right, your Honor. 1972 is already in evidence.

THE COURT: Fine. It will be received.

(Defendant's Exhibit A-2 was received in evidence.)

Q Mr. Nadino, let's direct our attention to that phone call you got from a man named Buzz. Did he ever leave his number for you to call him back?

A I don't recall, sir.

Q Did he ever send you stock certificates?

A No, sir.

Q Did you ever see stock certificates?

A No, sir.

Q Did he ever make you a firm offer to sell you the

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securities?

A No, sir.

Q Did he ever authorize you to sell the securities for any person?

A No, sir.

Q Did he ever tell you his full name?

A No, sir.

Q Do you know if those securities ever existed?

A No, sir.

Q Do you know the source of his information as to the stock certificate numbers?

A No, sir.

Q Do you know if there is a P. J. Watson alive?

A No, sir.

Q Did you know who P. J. Watson was?

A No, sir.

Q Do you know who Peter Watson is?

A No, sir.

Q Do you know where he is?

A No, sir.

Q To this day do you know him?

A No, sir.

Q Have you ever met him?

A No, sir.

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Q Do you know, sir, whether or not there could have been a plant on the telephone?

A I don't know, sir.

Q Have you ever gotten mysterious calls on inquiries stock?

A On occasion.

Q Have you ever had your competitors test the size of your market by having other brokers come in and make calls?

A Yes, sir.

Q Is that usual in the industry?

A Yes, sir.

Q Didn't you find it most mysterious that somebody wants to sell a big block of stock and never tells you who they are?

A Yes, sir.

Q Did you pay it any import at all?

MR. DIETZ: Objection.

THE COURT: All right.

Q Mr. Nadino, let me show you Exhibit 13 in evidence, Plaintiff's Exhibit. Is it your testimony that in May or June of 1971 when you were looking for a security to trade, that one of the securities you found, among others, was Management Dynamics?

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A Yes, sir.

Q What was the state of the Stock Market in 1971 at that time?

A Very, very quiet market.

Q Brokerage firms were closing at the time, weren't they?

A Yes, sir.

Q Did you have a limit in the size of the so-called box that you were permitted to trade at Carno?

A Absolutely.

Q Would you explain to the Court what a trader's box is?

A It is the amount of money in which the firm alots him to work with.

Q You weregiven an allocation by the management of Carno, were you not?

A Yes, sir.

Q In seeking stocks to trade at that time, did you look particularly for low-priced stocks?

A Yes, sir.

Q Was that because it fit within a monetary amount that Carno allocated to you as a trader?

A Yes, sir.

Q About how many low-priced stocks did you trade in

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June of '71?

THE COURT: Mr. Frank, it seems to me that this is a waste of time. If Mr. Dietz is correct that there was an obligation before trading began in the stock for the broker to ascertain, one, whether the stock was registered, and, two, to ascertain some information about the quality of the company, then whether he traded in low stocks and so forth is immaterial.

That it seems to me is the question.

MR. FRANK: With all due respect, your Honor, number one, that is not what is charged in the complaint.

THE COURT: That's what the issues are being presented here.

MR. FRANK: Unfortunately, Mr. Dietz did not charge that in the complaint. The defendants are charged with singly and acting in concert to do two things: One, to participate in a violation of Section 5 in the distribution of unregistered securities, which I respectfully submit as of this point there is a total failure of proof.

The other is a violation of Rule 10B or Section 17. If your Honor please, there are some exceptions under Rule 15C2. One of the exceptions is that if a security has previously traded for a number of days, then there is no requirement on the broker. There are other exceptions to

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the rule. A broker has an exception from Section 5, your Honor.

THE COURT: I hear you, Mr. Frank, and I understand that. In any event, none of these questions go to that issue.

MR. FRANK: I am aware of what will govern now, your Honor.

THE COURT: There is no point in our wasting time. If that's the issue, then direct the questions to that.

Q Mr. Nadion, prior to your commencing the trading of Management Dynamics in 1971, did you make inquiry as to whether or not it previously had traded?

A Yes, sir.

Q What did you find as a result of such inquiry?

A The stock had traded for at least a year.

Q The stock had traded for at least a year?

A Yes, sir.

Q Is Exhibit 13 some copies of the quotations that appear in the National Stock Summary?

A Yes, sir.

Q Going back as far back as 1970, is that correct?

A Yes, sir.

THE COURT: What exhibit is that?

MR. FRANK: Exhibit 13, your Honor.

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Q Mr. Nadino, just to clarify one point, did Mr. Dietz -- when Mr. Dietz asked you the question, was there anything other than supply and demand that governed the price which you quoted or offered this security for sale, you replied it was only supply and demand.

Is that correct?

A Yes, sir.

Q Is that still your answer?

A Yes, sir.

MR. FRANK: I have no further questions.

CROSS EXAMINATION

BY MR. BRECHERT:

Q Mr. Nadino, did anyone ever tell you that the securities of Management Dynamicswere required to be registered with the Commission?

MR. FRANK: Objection. I think the same objection that was raised when Mr. Dietz raised that question, your Honor.

MR. BRECHERT: I will rephrase the question.

Q Did the Securities & Exchange Commission ever advise you thatthe stock had to be registered with it?

THE COURT: What difference does that make? Did the Securities & Exchange Commission have to advise every broker? Wasn't the broker supposed to know what the rules

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are?

MR. BRECHERT: That is correct, your Honor.

THE COURT: Are they supposed to get out and advise them before people can be charged with any liability, is that what your --

MR. BRECHERT: No, your Honor.

THE COURT: I am getting weary of all these questions that don't seem to me to have any focus on what the issues are before the Court.

MR. BRECHERT: All right, your Honor, thank you.

THE COURT: Do you have something further?

MR. DIETZ: A few questions, your Honor.

REDIRECT EXAMINATION

BY MR. DIETZ:

Q In response to Mr. Frank's questions, you said that Management Dynamics had traded for at least a year prior to thetime that you went into the sheets.

A Yes, sir.

Q Can you tell us that it traded every single day during thatyear?

A Could I tell -- no, sir, I couldn't tell you that.

Q May there have been gaps of 15 or 20 days or even a month when theremay have been no quotation submitted to the pink sheets?

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its next witness Robert Berkson.

MR. FRANK: Your Honor, may we put Mr. Dryor on at this time?

THE COURT: No. No. You had your chance to put Mr. Dryor on. Call Mr. Bergson, please.

R O B E R T B E R K S O N, called as a witness by the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DIETZ:

Q Mr. Berkson, are you employed?

A Yes.

Q Where?

A A. J. Carno & Company.

Q What's your position there?

A President.

Q How long have you been president?

A About a little over a year, I think.

Q Were you at A. J. Carno in September of 1972?

A Yes, sir.

Q What was your position then?

A I believe I was president.

Q Did you swear out an affidavit in this action?

A Yes.

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Q In that affidavit, Mr. Berkson, you mentioned a meeting during the month of September-October with Mr. Ed Barrett, William Levy and a Miss Pauline Kirschenbaum. Will you tell the Court about that meeting?

A These people came into my office. My office at thattime was not at 42 Broadway where the trading department is, it was at 80 Broad Street.

Q Did they come in by prearrangement?

A No.

Q They just walked in unannounced?

A Yes.

Q What was said?

A Mr. Levy suggested that he would like to introduce me or A. J. Carno to the new management at Management Dynamics and to fill us in on any new developments that had occurred.

Q What were the developments that Mr. Levy told you about?

A I really don't remember them. He left me with some material. Anything that -- it would be very hard for me to say. I really don't recall. Only that there was a new president, he wanted me to meet him, say hello to him.

THE COURT: When did this take place?

THE WITNESS: At that meeting.

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THE COURT: I missed the date.

THE WITNESS: I believe it was in September or October of '72.

Q Do you recognize the documents in front of you, Plaintiff's Exhibits 1 and 2, as copies of documents that Mr. Levy left with you?

A He left me a folder, and I assume that this material was in it. I really don't recall.

Q Do you have that folder?

A No. I took the folder and anything that was left with me and sent it over to our trading department, to Mr. Nadino, which makes up our due diligence file. He may have had this material already. I don't know. It might have been mailed to us also.

Q You say in your affidavit that Mr. Levy remained a few minutes longer than the others. Do you remember what transpired during the time you were alone with Mr. Levy?

A Only -- there was really very little said, except that he said if there is anything he can help me with as far as information or anything else, that I shouldn't hesitate to call him, and so forth. I told him that I don't make the market in the stock, rather I am not the trader that trades the stock, and anything that he tells me I will transmit to the trader.

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Q You say in your affidavit --

THE COURT: Mr. Dietz, ask him any questions that you want to ask him about it. The point is thatyou refer to the affidavit. Ask him questions directly about what you want to ask him about. He is here.

Q Did Mr. Levy discuss anything about the trading of the stock in Management Dynamics?

A No.

Q After this meeting, did you ever speak with Mr. Levy again?

A Yes.

Q How many times?

A Three or four or five.

Q Do you remember the substance of any of those conversations?

A Not word for word. I would imagine he asked me the price of the stock, that type of thing.

Q What steps, if any, did you take to supervise Mr. Nadino?

A Well, Mr. Nadino is a registered principal, and his job is to supervise the trading room itself. I have found him to be conservative and honest and trustworthy. The steps that we have, we have a good system, I think, of checks and balances in our firm, and that is that at the end

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of each trade day I will ask him if there is any unusual activity in any particular stock. He will tell me if he feels that there was. We have an accountant that supervises -- that looks at the tickets every day, after he initials them, the next day when the computer run comes up, and will bring to my attention or to his attention anything thathe feels is otu of the ordinary.

Q Did you exercise any independent supervision?

A Such as -- what do you mean by that? Such as what?

Q Do you exercise any independent supervision?

THE COURT: You asked him that one, Mr. Dietz, and he said "Such as what?" He doesn't understand what you mean.

Q You testified that you rely on Mr. Nadino's judgment to report any unusual trading activity. Do you exercise any supervisory responsibility, whether or not Mr. Nadino reports "unusual activity" to you?

MR. FRANK: I must object to form, your Honor. I just find it is too disjunctive for me to understand.

THE COURT: Try again, Mr. Dietz.

Q Do you exercise any supervisory responsibility other than when Mr. Nadino reports unusual activities to you?

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A Yes.

Q Tell me what those are.

A Number one, I gave you one example, aud that is we have another principal that looks over the previous day's trading every day, and, number two, I do that myself on occasion. I spotQcheck certain things. I don't do it consistently. It would be impossible to do.

Q Have you ever heard of Samuel Hodge?

A Yes.

Q Who is he?

A Other than being a customer for which we executed a trade, I don't know.

Q How did he come to Carno?

A I assume by recommendation.

Q Whose client was he?

A Mine.

THE COURT: Whose client?

THE WITNESS: Mine.

THE COURT: Your answer was that he came by recommendation?

THE WITNESS: I assume by recommendation of someone. That happens very often. That's the way we get a lot of our customers.

Q What was your first contact with Hodge?

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A Telephone call, I believe.

Q When was that?

A Sometime preceding a trade that I made for him, and I don't have the dates in front of me.

Q What was the substance of that telephone call?

MR. FRANK: If your Honor please, before we have the call, may we have the date? Mr. Dietz is acting very mysteriously with his own witness. If he has something that would refresh him, I think we should try to move on here.

Q Here is Plaintiff's 11 which will give you the complete summary of Carno's trading.

THE COURT: Have we left the telephone call, Mr. Dietz?

MR. DIETZ: Excuse me?

THE COURT: Have we finished with the telephone call?

MR. DIETZ: No, your Honor. We are trying to fix a date.

A I don't see his name on here, but I see, unless I missed it in these pages, Paramount Record Company, which --

Q Is that connected with Mr. Hodge?

A Yes.

Q What's the relationship?

A I don't know what his relationship is. I believe

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he is president of Paramount Record Company. Our new account card would show that. And he gave me orders -- I think we executed two orders for him, one in his company and one for him personally.

Q What were those orders, do you remember?

A I remember that they were both sell orders. I believe they were for 1000 shares each.

Q Who executed these orders?

A I gave the order to Mr. Nadino.

Q Do you know if Mr. Hodge's stock was registered?

MR. FRANK: Objection, your Honor. I think it is a wholly improper question. I don't think there is anything that is Mr. Hodge's stock. There is no charge here --

MR. DIETZ: Mr. Hodge is a defendant here, your Honor.

THE COURT: But that could cover a whole number of things. Are you talking about -- he is not a defendant -- I thought that the issue here was the question of M. D. stock not being registered and these various people trading it.

MR. DIETZ: That's right. We have been discussing Management Dynamics stock, your Honor, and these sales were made on --

THE COURT: These were sales of Management Dynamics

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stock? That certainly isn't clear from what's gone on before in terms of your asking questions. It may be clear in your mind.

MR. DIETZ: I am terribly sorry, your Honor.

Q Mr. Berkson, what company shares were being sold? What was the name of the stock?

THE COURT: For Mr. Hodge?

MR. DIETZ: That's right.

A For Mr. Hodge, I think, Management Dynamics.

Q Do you know if this Management Dynamics stock was registered?

A I would say it was definitely registered. We don't sell unregistered stock for people.

Q On what do you base that statement?

A Well, for one thing, the manner and form in which it was delivered to us. I believe that we transferred the stock.

Q Did you ever see the certificates come in to you?

A I don't think that I saw the certificate directly, but I know it would have been pointed out to me immediately had there been a legend or anything else connected with it. And, of course, Mr. Hodge himself never indicated that it was --

Q If the stock hadn't had a legend on it, it might

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not have been registered --

MR. FRANK: Objection as to form, your Honor.

THE COURT: Objection sustained.

Q Do you know who referred Hodge to you?

MR. FRANK: Objection as having been asked before, your Honor.

THE COURT: You asked that. He said he thought he was recommended to him by someone. You asked how he came to him, Mr. Hodge. He said someone had recommended him.

Q Do you know what the source of recommendation of Mr. Hodge to your firm was?

A No.

Q Did you ever discuss Mr. Hodge with anyone else outside your firm?

A It would be strictly conjecture. I really don't recall.

MR. DIETZ: No further questions of this witness, your Honor.

THE COURT: All right, anything of this witness? Are there any questions of this witness?

MR. FRANK: No further questions of this witness, your Honor.

THE COURT: All right, thank you.

(Witness excused.)

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THE COURT: Call your next witness.

MR. DIETZ: Your Honor, the Commission calls Samuel Hodge.

MR. BRECHERT: Your Honor, as I previously advised Mr. Dietz out of court, Mr. Hodge will not be here today.

THE COURT: All right. Call your next witness. I had advised you on Friday of what the consequence of that failure to be here would mean.

MR. BRECHERT: Your Honor --

THE COURT: I advised you on Friday of what the consequences of that would mean.

MR. BRECHERT: Your Honor --

THE COURT: Call your next witness.

MR. BRECHERT: Your Honor, may I make a statement, please? Pursuant to your order to inform Mr. Hodge that his presence was requested by your Honor, I did so, and he replied to me that he would attempt to be here if he could obtain someone to care for his wife who is a complete invalid.

He requires more notice than was given and he couldn't be here today.

THE COURT: All right.

MR. BRECHERT: Your Honor, if I may further state, I would object strongly to any default being entered based on his non-appearance.

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THE COURT: A default will be entered because he has not - because of his absence.

Call your next witness.

MR. BRECHERT: Your Honor, may I make a statement in regard to that, please?

MR. DIETZ: Your Honor, we --

MR. BRECHERT: Excuse me, Mr. Dietz, if I may make a statement in regard to that, I see nothing in the rules of the Court to allow the entry of a default upon the failure of a defendant to appear at a civil trial. He wasn't subpoenaed and he wasn't given adequate notice to be here.

THE COURT: I ordered him here, and I gave him plenty of notice.

All right, let's proceed.

MR. DIETZ: Your Honor, the Commission would like to introduce three documents. I think we have stipulations on them.

(Plaintiff's Exhibits 15, 16 and 17 marked for identification.)

MR. DIETZ: Your Honor, the Commission recalls William Levy to the stand.

MR. GUSRAE: Is that a document being offered?

...

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74-1680

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January 20, 1975

Mr. A. Daniel Fusaro
United States Court of Appeals
Second Circuit
Foley Square
New York, New York 10007

Re: SEC v. Management Dynamics et al.

Dear Mr. Fusaro:

We are the attorneys for A.J. Carno Inc. and Anthony Nadino, two of the four appellants in this action. Oral argument is scheduled before this Court on January 29, 1975 at 10:30 A.M.

Several references are made in the reply brief submitted by our clients to statements contained in the brief submitted by the Securities and Exchange Commission ("SEC"). Unfortunately, certain errors in pagination by the SEC make our references to pages in the SEC's brief inaccurate.

With the express approval of Frederick L. White, Esq. of the office of the General Counsel of the SEC, I respectfully request to amend some of the footnotes contained in our reply brief in the following manner:

Reply Brief Page #	Reply Brief Footnote #	Should Read
18	3	Page 37
19	4	Page 37
21	6	Pages 5,6,25-30
22	8	Pages 6,25-30
22	9	Page 27
24	10	Page 33, footnote 26
25	11	Page 33, footnote 26

If you should have any questions in connection with this procedure please do not hesitate to contact me.

Respectfully yours,

Richard M. Kraver

Richard M. Kraver

RMK:h

cc: Frederick L. White, Esq.
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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

----------X 74-1680

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, Respondent,

vs.

MANAGEMENT DYNAMICS, INC., EDWIN BARRETT, CLYDE GOFF, EPHRAIM HOFFMAN, PETER R. WATSON, GLOBAL SECURITIES, INC., ALLEN LANGENAUER, DAVID LANGENAUER, BERNARD OSCHERS, LEE SCHNEIDER, JOSEPH CIRELLO, FAIRFIELD SECURITIES, INC., THOMAS F. BRENNON, III,

Defendants.

and

WILLIAM N. LEVY, A. J. CARNO, INC., ANTHONY NADINO, MAYFLOWER SECURITIES, INC. and SAMUEL D. HODGE,

Defendants-Appellants.

----------X

CERTIFICATE OF SERVICE

OF

BRIEF OF DEFENDANT-APPELLANT SAMUEL D. HODGE

DAN BRECHER, ESQ.
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COUNSELORS AT LAW
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NEW YORK, NEW YORK 10017

CERTIFICATE OF SERVICE

The undersigned, an attorney duly admitted to practice before this Court, certifies that on the 25th day of October, 1974, he personally delivered twenty-five copies of the foregoing BRIEF FOR DEFENDANT-APPELLANT SAMUEL D. HODGE to the Clerk of the United States Court of Appeals. He further caused two copies of the foregoing BRIEF FOR DEFENDANT-APPELLANT SAMUEL D. HODGE, to be served on the following individuals, by enclosing same in postage prepaid envelopes and depositing them in the United States mails:

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500 North Capitol Street, N. W.
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Dated: New York, New York
October 25, 1974

DAN BRECHER

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

IRWIN G. STEIN, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age, and resides at Brooklyn, New York. On October 25, 1974 deponent served the within DEFENDANT-APPELLANT WILLIAM N. LEVY REPLY BRIEF, in duplicate, upon the following persons at the following addresses designated for that purpose by depositing two true copies of same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Irwin G. Stein

IRWIN G. STEIN

Sworn to before me this 25th day of October, 1974

Louis Kulekofsky

Notary Public

State of New York }
County of New York }
Sworn to before me this
25 day of OCTOBER 1974

LOUIS KULEKOFSKY
Notary Public, State of New York
No. 52-7381575
Qualified in Suffolk County
Commission Expires March 30, 1976

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